



Transportation Committee

**Tuesday, March 7, 2006
2:00 PM - 4:00 PM
404 HOB**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Transportation Committee

Start Date and Time: Tuesday, March 07, 2006 02:00 pm

End Date and Time: Tuesday, March 07, 2006 04:00 pm

Location: 404 HOB

Duration: 2.00 hrs

Consideration of the following bill(s):

HB 255 CS Farm Labor Vehicles by Troutman
HB 297 CS Driving and Boating Under the Influence by Harrell
HB 461 Motor Vehicle License Plates by Jordan
HB 627 CS License Plates by Brummer
HB 791 Road Designations by Fields

Consideration of the following proposed committee bill(s):

PCB TR 06-01 -- General Revenue Bonds for Transportation/Resolution & Referendum
PCB TR 06-02 -- General Revenue Bonds for Transportation/Program Implementation
PCB TR 06-05 -- Residential Manufactured Building Regulation

NOTICE FINALIZED on 03/03/2006 11:21 by Rousseau.Tiffany

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 255 CS Farm Labor Vehicles
SPONSOR(S): Troutman and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 258

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture Committee	9 Y, 0 N, w/CS	Kaiser	Reese
2) Transportation Committee		Thompson J.T.	Miller P.M.
3) State Resources Council			
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 255 CS requires every farm labor vehicle to be equipped at each passenger position with a seatbelt on or before January 1, 2008. Furthermore, the bill requires owners and operators of farm labor vehicles to prominently display standard instructions, to be created by the Department of Highway Safety and Motor Vehicles, advocating the use of the seat belts provided. The bill clarifies liability relating to the use of the seat belts provided and provides penalties for violations.

The bill also requires farm labor contractors to display a farm worker transportation authorization sticker, obtainable from the Department of Business and Professional Regulation, on all farm labor vehicles. The bill requires the Department of Highway Safety and Motor Vehicles to provide to the Department of Business and Professional Regulation a copy of each accident report involving a farm labor vehicle.

The effective date of this legislation is July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill authorizes the Department of Business and Professional Regulation to issue a transportation authorization sticker for farm labor vehicles carrying migrant and seasonal farm workers. The bill also requires each farm labor vehicle to be equipped with seat belts at each passenger position.

B. EFFECT OF PROPOSED CHANGES:

Section 316.003, F.S., provides definitions relating to state traffic control. The current definition of "migrant farm worker" is amended to "migrant and seasonal farm worker". A migrant and seasonal farm worker is defined as "any person employed in hand labor operations in the planting, cultivation, or harvesting of agricultural crops".

The definition of "migrant farm worker carrier" is amended to "farm labor vehicle". A farm labor vehicle is defined as "any vehicle designed, used, or maintained for the transportation of nine or more migrant or seasonal farm workers, in addition to the driver, to or from a place of employment or employment-related activities". The term does not include any vehicle carrying only members of the immediate family of the owner or driver, any vehicle being operated by a common carrier of passengers, or any carpool as defined in s. 450.28(3), F.S.

Current law requires all carriers of migrant farm workers to systematically inspect and maintain all motor vehicles and their accessories subject to the carriers' control to ensure that such motor vehicles and accessories are in safe and proper operating condition in accordance with the provisions of Chapter 316, F.S. HB 255 requires owners and operators of farm labor vehicles operating on the public highways of the state to ensure that said vehicles are in safe and proper operating condition in accordance with state and federal standards.

In 1986, the Legislature enacted the "Florida Safety Belt Law." Section 316.614, F.S., requires a motor vehicle operator, front seat passengers, and all passengers less than 18 years of age to wear safety belts. The law is enforced against any adult driver or adult passenger who is not restrained by a safety belt. If a person under 18 years of age is unrestrained, the law is enforced against the driver. For persons over the age of 18, the "Florida Safety Belt Law" is enforced as a secondary offense; that is, law enforcement officers cannot stop motorists solely for not using their safety belts. Instead, the officer must first stop the motorist for a suspected violation of Chapter 316, 320, or 322, F.S., before the officer can issue a uniform traffic citation for failure to wear a safety belt. For operators and passengers under the age of 18, the safety belt law is enforced as a primary offense.

The bill provides that all farm labor vehicles must be equipped with a seatbelt assembly at each passenger position by January 1, 2008. Additionally, owners and operators of farm labor vehicles must prominently display standard instructions, to be created by the Department of Highway Safety and Motor Vehicles, requiring passengers to fasten their seat belts. The bill clarifies liability relating to the use of the seat belts provided.

Violations of this section are deemed to be a noncriminal traffic infraction. As provided in s. 318.18(16), F.S., a fine of one hundred dollars is imposed for:

- failure to display stickers authorizing said vehicle to transport migrant or seasonal farm workers, or
- failure to display notification requiring passengers to wear seat belts.

A fine of two hundred dollars is imposed for:

- operating a farm labor vehicle which fails to conform to vehicle safety standards, or
- failure to provide seat belts at each passenger position.

The bill also requires the Department of Highway Safety and Motor Vehicles to provide a copy of each accident report involving a farm labor vehicle, on a quarterly basis, to the Department of Business and Professional Regulation.

The bill requires farm labor contractors to obtain a farm worker transportation authorization sticker from the Department of Business and Professional Regulation before transporting migrant farm and seasonal workers in a farm labor vehicle. The sticker is to be displayed on the vehicle.

And lastly, the bill amends cross-references for the new definition of "migrant or seasonal farm worker".

C. SECTION DIRECTORY:

Section 1: Amends s. 316.003, F.S.; amending definitions for migrant or seasonal farm worker and farm labor vehicle.

Section 2: Repeals s. 316.620, F.S.

Section 3: Creates s. 316.622, F.S.; requiring farm labor vehicles to conform to federal and state safety standards; requiring farm labor vehicles to be equipped with seat belts on a date certain; requiring vehicle authorization stickers from the Department of Business and Professional Regulation for using a vehicle to transport farm workers; providing penalties; requiring notification; and, requiring Department of Highway Safety and Motor Vehicles to create notification.

Section 4: Amends s. 318.18, F.S.; creating penalties for non-compliance.

Sections 5, 6 and 7: Amends ss. 320.38, 322.031, and 450.181, F.S.; conforming language.

Section 8: Amends s. 450.28, F.S.; amending a definition for carpool.

Section 9: Amends s. 450.33, F.S.; requiring farm labor contractor to display vehicle authorization sticker on vehicles used to transport migrant or seasonal farm workers.

Section 10: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill will potentially enhance the safety of migrant and seasonal farm workers when being transported in farm labor vehicles.

D. FISCAL COMMENTS:

According to the Department of Highway Safety and Motor Vehicles, the revenue impact from operators who are cited for a violation of s. 316.622, F.S., is indeterminate at this time. The cost for producing the safety belt notification instructions is anticipated to be minimal and will most likely be absorbed within existing resources.

According to the Department of Business and Professional Regulation (DBPR), the cost of producing the sticker required by this legislation will be minimal and can be handled within existing resources. The bill also provides for a vehicle authorization program. DBPR currently operates a farm labor vehicle authorization program for the federal government pursuant to a contract with the U.S. Department of Labor.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On January 25, 2006, the Committee on Agriculture adopted five amendments to HB 255.

- **Amendment 1** requires the Department of Highway Safety and Motor Vehicles, on a quarterly basis, to provide the Department of Business and Professional Regulation with a copy of each accident report involving a farm labor vehicle.
- For the sake of consistency, **Amendment 2** adds the words "migrant or seasonal" to s. 450.33(12), F.S.
- **Amendments 3-4** increases the penalties for violations relating to farm labor vehicles.
- **Amendment 5** clarifies liability relating to the use of seatbelts provided.

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CHAMBER ACTION

The Agriculture Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to farm labor vehicles; amending s. 316.003, F.S.; providing definitions; repealing s. 316.620, F.S., relating to transportation of migrant farm workers; creating s. 316.622, F.S.; requiring owners and operators of farm labor vehicles to conform such vehicles to certain standards; requiring seat belts at each passenger position in certain vehicles; requiring certain operators to display prescribed stickers on their vehicles; requiring a certain sign to be displayed in such vehicles; providing for consideration in civil proceedings of failure to use or require use of installed seat belts; requiring the Department of Highway Safety and Motor Vehicles to provide copies of certain accident reports to the Department of Business and Professional Regulation; providing a penalty; amending s. 318.18, F.S.; providing penalties for violation of specified farm labor vehicle requirements; amending ss. 320.38, 322.031, and 450.181, F.S.; conforming provisions; amending s. 450.28, F.S.;

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revising a definition; amending s. 450.33, F.S.;
conforming a cross-reference; requiring the Department of
Business and Professional Regulation to issue a vehicle
authorization sticker denoting the authorization of a
vehicle to transport certain farm workers; requiring the
display of the sticker; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (61) and (62) of section 316.003,
Florida Statutes, are amended to read:

316.003 Definitions.--The following words and phrases,
when used in this chapter, shall have the meanings respectively
ascribed to them in this section, except where the context
otherwise requires:

(61) MIGRANT OR SEASONAL FARM WORKER.--Any person employed
in hand labor operations in the planting, cultivation, or
harvesting of agricultural crops ~~who is not indigenous to, or~~
~~domiciled in, the locale where so employed.~~

(62) FARM LABOR VEHICLE.--Any vehicle designed, used, or
maintained for the transportation of nine or more migrant or
seasonal farm workers, in addition to the driver, to or from a
place of employment or employment-related activities. The term
does not include:

(a) Any vehicle carrying only members of the immediate
family of the owner or driver.

(b) Any vehicle being operated by a common carrier of
passengers.

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(c) Any carpool as defined in s. 450.28(3). ~~MIGRANT FARM
WORKER CARRIER. Any person who transports, or who contracts or
arranges for the transportation of, nine or more migrant farm
workers to or from their employment by motor vehicle other than
a passenger automobile or station wagon, except a migrant farm
worker transporting himself or herself or the migrant farm
worker's immediate family.~~

Section 2. Section 316.620, Florida Statutes, is repealed.

Section 3. Section 316.622, Florida Statutes, is created
to read:

316.622 Farm labor vehicles.--

(1) Each owner or operator of a farm labor vehicle that is
operated on the public highways of this state shall ensure that
such vehicle conforms to vehicle safety standards prescribed by
the Secretary of Labor under s. 401(b) of the Migrant and
Seasonal Agricultural Worker Protection Act, 29 U.S.C. s.
1841(b), and other applicable federal and state safety
standards.

(2) On or after January 1, 2008, a farm labor vehicle
having a gross vehicle weight rating of 10,000 pounds or less
must be equipped at each passenger position with a seat belt
assembly that meets the requirements established under Federal
Motor Vehicle Safety Standard No. 208, 49 C.F.R. s. 571.208.

(3) A farm labor contractor may not transport migrant or
seasonal farm workers in a farm labor vehicle unless the display
sticker described in s. 450.33 is clearly displayed on the
vehicle.

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79 (4) The owner or operator of a farm labor vehicle must
80 prominently display in the vehicle standardized notification
81 instructions requiring passengers to fasten their seat belts.
82 The Department of Highway Safety and Motor Vehicles shall create
83 standard notification instructions.

84 (5) Failure of any migrant or seasonal farm worker to use
85 a seat belt provided by the owner of a farm labor vehicle under
86 the provisions of this section shall not constitute negligence
87 per se, and such failure shall not be used as prima facie
88 evidence of negligence or considered in mitigation of damages;
89 however, such failure may be considered as evidence of
90 comparative negligence in any civil action.

91 (6) Failure of any owner or operator of a farm labor
92 vehicle to require that all passengers be restrained by a seat
93 belt when the vehicle is in motion may not be considered as
94 evidence of negligence in any civil action, provided that such
95 vehicle is otherwise in compliance with this section.

96 (7) Beginning the first quarter of the 2006-2007 fiscal
97 year, and each quarter thereafter, the department shall provide
98 to the Department of Business and Professional Regulation a copy
99 of each accident report involving a farm labor vehicle.

100 (8) A violation of this section is a noncriminal traffic
101 infraction, punishable as provided in s. 318.18(16).

102 Section 4. Subsection (16) is added to section 318.18,
103 Florida Statutes, to read:

104 318.18 Amount of civil penalties.--The penalties required
105 for a noncriminal disposition pursuant to s. 318.14 are as
106 follows:

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107 (16) (a) Two hundred dollars for a violation of s.
108 316.622(1) or (2), operating a farm labor vehicle which fails to
109 conform to vehicle safety standards or lack of seat belt
110 assemblies at each passenger position.

111 (b) One hundred dollars for a violation of s. 316.622(3)
112 or (4), failing to display a sticker authorizing the vehicle to
113 transport migrant or seasonal farm workers or failing to display
114 standardized notification instructions requiring passengers to
115 fasten their seat belts.

116 Section 5. Section 320.38, Florida Statutes, is amended to
117 read:

118 320.38 When nonresident exemption not allowed.--The
119 provisions of s. 320.37 authorizing the operation of motor
120 vehicles over the roads of this state by nonresidents of this
121 state when such vehicles are duly registered or licensed under
122 the laws of some other state or foreign country do not apply to
123 any nonresident who accepts employment or engages in any trade,
124 profession, or occupation in this state, except a nonresident
125 migrant or seasonal farm worker as defined in s. 316.003(61). In
126 every case in which a nonresident, except a nonresident migrant
127 or seasonal farm worker as defined in s. 316.003(61), accepts
128 employment or engages in any trade, profession, or occupation in
129 this state or enters his or her children to be educated in the
130 public schools of this state, such nonresident shall, within 10
131 days after the commencement of such employment or education,
132 register his or her motor vehicles in this state if such motor
133 vehicles are proposed to be operated on the roads of this state.
134 Any person who is enrolled as a student in a college or

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135 university and who is a nonresident but who is in this state for
136 a period of up to 6 months engaged in a work-study program for
137 which academic credits are earned from a college whose credits
138 or degrees are accepted for credit by at least three accredited
139 institutions of higher learning, as defined in s. 1005.02, is
140 not required to have a Florida registration for the duration of
141 the work-study program if the person's vehicle is properly
142 registered in another jurisdiction. Any nonresident who is
143 enrolled as a full-time student in such institution of higher
144 learning is also exempt for the duration of such enrollment.

145 Section 6. Subsection (1) of section 322.031, Florida
146 Statutes, is amended to read:

147 322.031 Nonresident; when license required.--

148 (1) In every case in which a nonresident, except a
149 nonresident migrant or seasonal farm worker as defined in s.
150 316.003(61), accepts employment or engages in any trade,
151 profession, or occupation in this state or enters his or her
152 children to be educated in the public schools of this state,
153 such nonresident shall, within 30 days after the commencement of
154 such employment or education, be required to obtain a Florida
155 driver's license if such nonresident operates a motor vehicle on
156 the highways of this state. The spouse or dependent child of
157 such nonresident shall also be required to obtain a Florida
158 driver's license within that 30-day period prior to operating a
159 motor vehicle on the highways of this state.

160 Section 7. Subsection (3) of section 450.181, Florida
161 Statutes, is amended to read:

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450.181 Definitions.--As used in part II, unless the context clearly requires a different meaning:

(3) The term "migrant laborer" has the same meaning as migrant or seasonal farm workers as defined in s. 316.003(61).

Section 8. Subsection (3) of section 450.28, Florida Statutes, is amended to read:

450.28 Definitions.--

(3) "Carpool" means an arrangement made by the workers using one worker's own vehicle ~~reached by and between farm workers~~ for transportation to and from work and for which the driver or owner of the vehicle is not paid by any third person other than the members of the carpool.

Section 9. Subsection (9) of section 450.33, Florida Statutes, is amended, and subsection (12) is added to that section, to read:

450.33 Duties of farm labor contractor.--Every farm labor contractor must:

(9) Produce evidence to the department that each vehicle he or she uses for the transportation of employees complies with the requirements and specifications established in chapter 316, s. 316.622 ~~316.620~~, or Pub. L. No. 93-518 as amended by Pub. L. No. 97-470 meeting Department of Transportation requirements or, in lieu thereof, bears a valid inspection sticker showing that the vehicle has passed the inspection in the state in which the vehicle is registered.

(12) Clearly display on each vehicle used to transport migrant or seasonal farm workers a display sticker issued by the department which states that the vehicle is authorized by the

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190 department to transport migrant or seasonal farm workers and the
191 expiration date of the authorization.

192 Section 10. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 297 CS

Driving and Boating Under the Influence

SPONSOR(S): Harrell

TIED BILLS:

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee	6 Y, 0 N, w/CS	Kramer	Kramer
2) Transportation Committee		Thompson J.T.	Miller P.M.
3) Criminal Justice Appropriations Committee			
4) Justice Council			
5) _____			

SUMMARY ANALYSIS

Currently, a court must order imprisonment for not less than 30 days for a fourth or subsequent driving under the influence (DUI) or boating under the influence (BUI) offense that occurs within 10 years of a prior conviction. There is no minimum mandatory term of imprisonment required if the fourth or subsequent DUI or BUI does not occur within 10 years of a prior conviction. HB 297 will require the imposition of a two year minimum mandatory sentence for a fourth or subsequent DUI or BUI conviction, regardless of when the prior conviction occurred. The bill further provides that there shall be no substitution of this minimum mandatory term of imprisonment with treatment alternatives but the court may, with the consent of the state, order the defendant to serve a minimum mandatory sentence of 1 year of incarceration followed by a period of probation during which the defendant must attend and successfully complete a residential alcohol treatment program, a residential drug abuse treatment program or be placed on community control.

Currently for a fourth or subsequent DUI committed within 10 years of a prior conviction, the judge must order, as a condition of probation, the impoundment or immobilization of all vehicles owned by the defendant for 90 days or for the unexpired term of any lease or rental agreement that expires within 90 days. The bill requires that for a fourth or subsequent DUI (regardless of when the prior conviction occurred), the judge must order the impoundment or immobilization of all vehicles owned by the defendant at the time of impoundment or immobilization for a period of 120 days or for the unexpired term of any lease or rental agreement that expires within 120 days. For a fourth or subsequent BUI, the court must order impoundment or immobilization of the vessel that was operated by or in the actual control of the defendant or any one vehicle registered in the defendant's name for the same period of time as for a DUI offense. The bill provides that the court may dismiss the order in certain circumstances.

The bill also requires that every judgment of guilty for a DUI or BUI offense must be in writing, signed by the judge and recorded by the clerk of the circuit court. The fingerprints of the defendant must be affixed to the judgment and the judge must certify that the fingerprints were placed on the judgment by the defendant in open court. The bill also requires the defendant's social security number to be placed on the judgment. The written judgment of guilty made in compliance with this provision, or a certified copy, will be admissible in court as prima facie evidence that the fingerprints are the fingerprints of the defendant against whom the judgment of guilty was rendered.

The Criminal Justice Impact Conference (CJIC) met on February 28, 2006 to determine the prison bed impact of HB 297 w/CS on the Department of Corrections. The CJIC determined that total operating costs and fixed capital outlay costs required for fiscal year 2006-2007 will total \$8.6 million and the total cumulative operating costs and fixed capital outlay costs required for fiscal year 2006-2007 through 2010-2011 will total \$29.9 million. See fiscal section of this analysis for details.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: 3/2/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill will require the imposition of a minimum mandatory sentence for a fourth or subsequent DUI or BUI conviction and the impoundment of the offender's vehicle for a fourth or subsequent DUI.

Promote personal responsibility: The bill increases the sanctions for DUI and BUI.

B. EFFECT OF PROPOSED CHANGES:

DUI

The offense of driving under the influence¹ (DUI) is committed if a person is driving or in the actual physical control of a vehicle within the state and:

- The person is under the influence of alcoholic beverages, any chemical substance or any controlled substance when affected to the extent that the person's normal faculties are impaired;
- The person has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or
- The person has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.

The offense is punishable as follows²:

- For a first conviction, by a fine of not less than \$250 or more than \$500 and by imprisonment for not more than 6 months
- For a second conviction, by a fine of not less than \$500 or more than \$1000 and by imprisonment for not more than 9 months. If the second conviction was for an offense committed within 5 years of the date of a prior conviction, the court must order imprisonment for not less than 10 days.³
- For a third conviction that is not within 10 years of a prior conviction, by a fine of not less than \$1000 or more than \$2500 and by imprisonment for not more than 12 months.⁴

A third conviction for an offense that occurs within 10 years of a prior conviction is a third degree felony, punishable by no less than 30 days in jail⁵ and up to five years in prison and a fine of up to \$1000.⁶ A fourth conviction, regardless of when it occurs, is a third degree felony, punishable by up to five years in prison and a fine of not less than \$1000 or more than \$5000.⁷ If the fourth or subsequent conviction was for an offense that occurred within 10 years after the date of a prior conviction, the court must order imprisonment for not less than 30 days.⁸

¹ s. 316.193(1), F.S.

² s. 316.193(2), F.S.

³ s. 316.193(6)(b), F.S.

⁴ s. 316.193(2)(b)2, F.S.

⁵ s. 316.193(6)(c), F.S.

⁶ s. 316.193(2)(b)1, F.S.

⁷ s. 316.193(2)(b)3, F.S. Additionally, a person who has been convicted of DUI may be required to place an ignition interlock device on his or her vehicle. Section 316.193 also increases sanctions for DUI which results in damage to the property or person of another, serious bodily injury or the death of another person. s. 316.193(3)(c), F.S.

⁸ s. 316.193(6)(c), F.S.

At the judge's discretion, a defendant may be required to serve all or any portion of a term of imprisonment to which the defendant has been sentenced in a residential alcoholism treatment program or a residential drug abuse treatment program.⁹

Current law also requires a judge to order, as a condition of probation, the impoundment or immobilization of vehicles as follows:

- For a first DUI conviction, the court must order the impoundment or immobilization of the vehicle that was used in the DUI offense or any one vehicle registered in the defendant's name at the time of impoundment or immobilization for a period of 10 days or for the unexpired term of any lease or rental agreement that expires within 10 days. The impoundment or immobilization cannot occur concurrently with the incarceration of the defendant.
- For a second DUI conviction within 5 years of the date of a prior conviction, the court must order the impoundment or immobilization of all vehicles owned by the defendant at the time of impoundment or immobilization for a period of 30 days or for the unexpired term of any lease or rental agreement that expires within 30 days.
- For a third or subsequent DUI that occurs within 10 years of a prior conviction, the court must order the impoundment or immobilization of all vehicles owned by the defendant at the time of impoundment or immobilization for a period of 90 days or for the unexpired term of any lease or rental agreement that expires within 90 days.¹⁰

The court can dismiss the order of impoundment or immobilization in specified circumstances.¹¹ The impoundment or immobilization cannot occur concurrently with the incarceration of the defendant and must occur concurrently with the driver's license revocation imposed under s. 322.28(2)(a), F.S.. This section requires the revocation of a person's driver's license for not less than 180 days and no more than 1 year for a first DUI conviction¹²; for not less than 5 years for a second conviction for an offense that occurs within 5 years after the date of a prior conviction¹³ and for not less than 10 years for a third conviction for an offense that occurs within 10 years of a prior conviction.¹⁴ A fourth DUI conviction results in permanent revocation of a person's driving privilege.¹⁵

BUI

Section 327.35, F.S. prohibits the offense of boating under the influence (BUI) which has the same elements (other than the substitution of the word "vessel" for "vehicle") as the offense of driving under the influence. The fine and imprisonment provisions in the BUI statute are identical to those in the DUI statute. For a third or subsequent BUI within 10 years of a prior conviction, the court must, as a condition of probation, order the impoundment or immobilization of the vessel that was operated by or in the actual control of the defendant or any one vehicle registered in the defendant's name for a period of 90 days or for unexpired term of any lease or rental agreement that expires within 90 days.

Effect of HB 297 w/CS

Sentencing: Currently there is no mandatory minimum term of imprisonment for a fourth or subsequent DUI or BUI unless it occurs within 10 years of a prior DUI or BUI in which case, a 30 day minimum mandatory sentence must be imposed. The bill amends the DUI and BUI statutes to provide that for a fourth or subsequent conviction, the court must order imprisonment for not less than 2 years,

⁹ s. 316.193(6)(k), F.S.

¹⁰ See s. 316.193(6)(a), (b) and (c), F.S.

¹¹ See s. 316.193(6)(e), (f), (g) and (h), F.S.

¹² s. 322.28(2)(a)1, F.S.

¹³ s. 322.28(2)(a)2, F.S.

¹⁴ s. 322.28(2)(a)3, F.S.

¹⁵ s. 322.28(2)(e), F.S.

regardless of when a prior conviction occurred. The bill further provides that there shall be no substitution of this minimum mandatory term of imprisonment with treatment alternatives but the court may, with the consent of the state, order the defendant to serve a minimum mandatory sentence of 1 year of incarceration followed by a period of probation during which the defendant must attend and successfully complete a residential alcohol treatment program, a residential drug abuse treatment program or be placed on community control.

Impoundment of vehicle or vessel: Currently, for a third or subsequent DUI that occurs within 10 years of a prior conviction, the court must order the impoundment or immobilization of all vehicles owned by the defendant at the time of impoundment or immobilization for a period of 90 days or for the unexpired term of any lease or rental agreement that expires within 90 days. The bill provides that as a condition of probation for a fourth or subsequent DUI conviction, regardless of when a prior conviction occurred, the court must order the impoundment or immobilization of all vehicles owned by the defendant at the time of impoundment or immobilization for a period of 120 days or for the unexpired term of any lease or rental agreement that expires within 120 days. In conformity with current law, the bill provides that the impoundment or immobilization must not occur concurrently with any incarceration and must occur concurrently with the revocation of the offender's driver's license. The judge will be permitted to dismiss the impoundment or immobilization in accordance with current law.

For a fourth or subsequent BUI, the court must order impoundment or immobilization of the vessel that was operated by or in the actual control of the defendant or any one vehicle registered in the defendant's name for the same period of time as for a DUI offense. The bill provides that a person who owns but was not operating the vessel when an offense occurred may request an evidentiary hearing to determine whether the impoundment or immobilization should occur. If the court finds that the owner was unaware of the defendant's prior conviction and sentence or if the court finds that there are other mitigating circumstances that should allow the owner of the vessel to secure the release of the vessel to the owner's possession, the court may do so by dismissing the order of impoundment or immobilization with or without cost to the vessel owner.

Judgment: The bill also provides that every judgment of guilty for DUI or BUI offense must be in writing, signed by the judge and recorded by the clerk of the circuit court. The judge must cause to be affixed to the judgment the fingerprints of the defendant against whom the judgment is rendered. The bill sets the wording of a certificate to be signed by the judge certifying that the fingerprints were placed on the judgment by the defendant in open court. The bill also requires the defendant's social security number to be placed on the judgment. The written judgment of guilty made in compliance with this section, or a certified copy, will be admissible in court as prima facie evidence that the fingerprints are the fingerprints of the defendant against whom the judgment of guilty was rendered.¹⁶

C. SECTION DIRECTORY:

Section 1. Amends s. 316.193, F.S. to provide for minimum mandatory term of imprisonment for fourth or subsequent DUI conviction; provides for impoundment of vehicle.

Section 2. Amends s. 327.35, F.S. to provide for minimum mandatory term of imprisonment for fourth or subsequent BUI conviction; provides for impoundment of vehicle or vessel.

Section 3. Provides effective date of October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

¹⁶ This provision is substantially similar to s. 921.241, F.S. relating to judgments of guilty for felony offenses.

None.

2. Expenditures:

The Criminal Justice Impact Conference met on February 28, 2006 to consider the prison bed impact of HB 297 w/CS on the Department of Corrections. The conference estimated that the impact would be as follows:

Fiscal Year	Projected Cumulative Prison Beds Required	Projected Additional Annual Prison Beds Required	FUNDS REQUIRED			
			Annual Operating Costs	Annual Fixed Capital Outlay Costs	TOTAL Annual Funds	TOTAL Cumulative Funds
2006-2007	45	45	\$429,165	\$8,175,419	\$8,604,584	\$8,604,584
2007-2008	203	158	\$2,402,996	\$2,946,096	\$5,349,092	\$13,953,676
2008-2009	275	72	\$4,724,313	\$0	\$4,724,313	\$18,677,989
2009-2010	275	0	\$5,550,050	\$0	\$5,550,050	\$24,228,039
2010-2011	275	0	\$5,677,650	\$0	\$5,677,650	\$29,905,689
Total	275	275	\$ 18,784,174	\$ 11,121,515	\$29,905,689	\$29,905,689

Notes: Analysis assumes that there will be a 50% increase in the incarceration rate for felony DUI (4th or subsequent conviction), increasing from 41.4% to 62.1%. Additional offenders sentenced to prison were assumed to serve 24 months.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

See above.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

As originally filed, the bill required the imposition of a 2 year minimum mandatory sentence for a fourth DUI or BUI and specified that the judge could not order treatment options in lieu of this term of imprisonment. The Criminal Justice Committee adopted a strike-all amendment which authorizes the judge, with the consent of the state, to order one year of incarceration followed by a period of probation during which the defendant must attend and complete a residential alcohol or drug abuse treatment program or be placed on community control. The amendment added language requiring the defendant's fingerprints to be affixed to judgments of guilty for DUI and BUI as discussed in the analysis above. The bill also amended the provision relating to impoundment of vehicles or vessels for a BUI conviction.

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CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to driving and boating under the
7 influence; amending s. 316.193, F.S.; providing for
8 applicability of sanctions; requiring a specified period
9 of imprisonment for a fourth or subsequent conviction of
10 driving under the influence; prohibiting substitution of
11 treatment alternatives in certain circumstances; requiring
12 impoundment or immobilization of all vehicles owned by the
13 defendant for a specified period; providing for dismissal
14 of an impoundment order; requiring records of judgments of
15 guilty to include fingerprints and social security
16 numbers; amending s. 327.35, F.S.; requiring a specified
17 period of imprisonment for a fourth or subsequent
18 conviction of boating under the influence; prohibiting
19 substitution of treatment alternatives in certain
20 circumstances; requiring impoundment or immobilization of
21 the vessel operated by or in the actual control of the
22 defendant or any one vehicle registered in the defendant's
23 name at the time of impoundment or immobilization for a

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CODING: Words stricken are deletions; words underlined are additions.

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specified period; providing for dismissal of an order of
impoundment or immobilization under certain circumstances
upon request of an owner who was not operating the vessel;
providing for dismissal of an impoundment order; requiring
records of judgments of guilty to include fingerprints and
social security numbers; providing applicability;
providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (6) of section 316.193, Florida
Statutes, is amended, and subsection (13) is added to that
section, to read:

316.193 Driving under the influence; penalties.--

(6) With respect to any person convicted of a violation of
this section ~~subsection (1), regardless of any penalty imposed~~
~~pursuant to subsection (2), subsection (3), or subsection (4):~~

(a) For the first conviction, the court shall place the
defendant on probation ~~for a period not to exceed 1 year~~ and, as
a condition of such probation, shall order the defendant to
participate in public service or a community work project for a
minimum of 50 hours; or the court may order instead, that any
defendant pay an additional fine of \$10 for each hour of public
service or community work otherwise required, if, after
consideration of the residence or location of the defendant at
the time public service or community work is required, payment
of the fine is in the best interests of the state. ~~However, the~~
~~total period of probation and incarceration may not exceed 1~~

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52 ~~year.~~ The court must also, as a condition of probation, order
53 the impoundment or immobilization of the vehicle that was
54 operated by or in the actual control of the defendant or any one
55 vehicle registered in the defendant's name at the time of
56 impoundment or immobilization, for a period of 10 days or for
57 the unexpired term of any lease or rental agreement that expires
58 within 10 days. The impoundment or immobilization must not occur
59 concurrently with the incarceration of the defendant. The
60 impoundment or immobilization order may be dismissed in
61 accordance with paragraph (e), paragraph (f), paragraph (g), or
62 paragraph (h).

63 (b) For the second conviction for an offense that occurs
64 within a period of 5 years after the date of a prior conviction
65 for violation of this section, the court shall order
66 imprisonment for not less than 10 days. The court must also, as
67 a condition of probation, order the impoundment or
68 immobilization of all vehicles owned by the defendant at the
69 time of impoundment or immobilization, for a period of 30 days
70 or for the unexpired term of any lease or rental agreement that
71 expires within 30 days. The impoundment or immobilization must
72 not occur concurrently with the incarceration of the defendant
73 and must occur concurrently with the driver's license revocation
74 imposed under s. 322.28(2)(a)2. The impoundment or
75 immobilization order may be dismissed in accordance with
76 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).
77 At least 48 hours of confinement must be consecutive.

78 (c) For the third ~~or subsequent~~ conviction for an offense
79 that occurs within a period of 10 years after the date of a

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80 prior conviction for violation of this section, the court shall
81 order imprisonment for not less than 30 days. The court must
82 also, as a condition of probation, order the impoundment or
83 immobilization of all vehicles owned by the defendant at the
84 time of impoundment or immobilization⁷ for a period of 90 days
85 or for the unexpired term of any lease or rental agreement that
86 expires within 90 days. The impoundment or immobilization shall
87 ~~must~~ not occur concurrently with the incarceration of the
88 defendant and shall ~~must~~ occur concurrently with the driver's
89 license revocation imposed under s. 322.28(2)(a)3. The
90 impoundment or immobilization order may be dismissed in
91 accordance with paragraph (e), paragraph (f), paragraph (g), or
92 paragraph (h). At least 48 hours of confinement must be
93 consecutive.

94 (d) The court must at the time of sentencing the defendant
95 issue an order for the impoundment or immobilization of a
96 vehicle. Within 7 business days after the date that the court
97 issues the order of impoundment or immobilization, the clerk of
98 the court must send notice by certified mail, return receipt
99 requested, to the registered owner of each vehicle, if the
100 registered owner is a person other than the defendant, and to
101 each person of record claiming a lien against the vehicle.

102 (e) A person who owns but was not operating the vehicle
103 when the offense occurred may submit to the court a police
104 report indicating that the vehicle was stolen at the time of the
105 offense or documentation of having purchased the vehicle after
106 the offense was committed from an entity other than the
107 defendant or the defendant's agent. If the court finds that the

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108 vehicle was stolen or that the sale was not made to circumvent
109 the order and allow the defendant continued access to the
110 vehicle, the order must be dismissed and the owner of the
111 vehicle will incur no costs. If the court denies the request to
112 dismiss the order of impoundment or immobilization, the
113 petitioner may request an evidentiary hearing.

114 (f) A person who owns but was not operating the vehicle
115 when the offense occurred, and whose vehicle was stolen or who
116 purchased the vehicle after the offense was committed directly
117 from the defendant or the defendant's agent, may request an
118 evidentiary hearing to determine whether the impoundment or
119 immobilization should occur. If the court finds that either the
120 vehicle was stolen or the purchase was made without knowledge of
121 the offense, that the purchaser had no relationship to the
122 defendant other than through the transaction, and that such
123 purchase would not circumvent the order and allow the defendant
124 continued access to the vehicle, the order must be dismissed and
125 the owner of the vehicle will incur no costs.

126 (g) The court shall also dismiss the order of impoundment
127 or immobilization of the vehicle if the court finds that the
128 family of the owner of the vehicle has no other private or
129 public means of transportation.

130 (h) The court may also dismiss the order of impoundment or
131 immobilization of any vehicles that are owned by the defendant
132 but that are operated solely by the employees of the defendant
133 or any business owned by the defendant.

134 (i) All costs and fees for the impoundment or
135 immobilization, including the cost of notification, must be paid

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by the owner of the vehicle or, if the vehicle is leased or rented, by the person leasing or renting the vehicle, unless the impoundment or immobilization order is dismissed. All provisions of s. 713.78 shall apply.

(j) The person who owns a vehicle that is impounded or immobilized under this paragraph, or a person who has a lien of record against such a vehicle and who has not requested a review of the impoundment pursuant to paragraph (e), paragraph (f), or paragraph (g), may, within 10 days after the date that person has knowledge of the location of the vehicle, file a complaint in the county in which the owner resides to determine whether the vehicle was wrongfully taken or withheld from the owner or lienholder. Upon the filing of a complaint, the owner or lienholder may have the vehicle released by posting with the court a bond or other adequate security equal to the amount of the costs and fees for impoundment or immobilization, including towing or storage, to ensure the payment of such costs and fees if the owner or lienholder does not prevail. When the bond is posted and the fee is paid as set forth in s. 28.24, the clerk of the court shall issue a certificate releasing the vehicle. At the time of release, after reasonable inspection, the owner or lienholder must give a receipt to the towing or storage company indicating any loss or damage to the vehicle or to the contents of the vehicle.

(k) A defendant, in the court's discretion, may be required to serve all or any portion of a term of imprisonment to which the defendant has been sentenced pursuant to this section in a residential alcoholism treatment program or a

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residential drug abuse treatment program. Any time spent in such a program must be credited by the court toward the term of imprisonment.

(1) For the fourth or subsequent conviction under subparagraph (2)(b)3., the court shall order imprisonment for not less than 2 years. There shall be no substitution of this minimum mandatory term of imprisonment with treatment alternatives. However, the court may, with the consent of the state, order the defendant to serve a minimum mandatory sentence of 1 year of incarceration followed by a period of probation during which the defendant must attend and successfully complete a residential alcohol treatment program, a residential drug abuse treatment program, or be placed on community control. The court must also, as a condition of probation, order the impoundment or immobilization of all vehicles owned by the defendant at the time of impoundment or immobilization for a period of 120 days or for the unexpired term of any lease or rental agreement that expires within 120 days. The impoundment or immobilization shall not occur concurrently with the incarceration of the defendant and shall occur concurrently with the driver's license revocation imposed under s. 322.28. The impoundment or immobilization order may be dismissed in accordance with paragraph (e), paragraph (f), paragraph (g), or paragraph (h). At least 48 hours of confinement must be consecutive.

For the purposes of this section, any conviction for a violation of s. 327.35; a previous conviction for the violation of former

192 s. 316.1931, former s. 860.01, or former s. 316.028; or a
193 previous conviction outside this state for driving under the
194 influence, driving while intoxicated, driving with an unlawful
195 blood-alcohol level, driving with an unlawful breath-alcohol
196 level, or any other similar alcohol-related or drug-related
197 traffic offense, is also considered a previous conviction for
198 violation of this section. However, in satisfaction of the fine
199 imposed pursuant to this section, the court may, upon a finding
200 that the defendant is financially unable to pay either all or
201 part of the fine, order that the defendant participate for a
202 specified additional period of time in public service or a
203 community work project in lieu of payment of that portion of the
204 fine which the court determines the defendant is unable to pay.
205 In determining such additional sentence, the court shall
206 consider the amount of the unpaid portion of the fine and the
207 reasonable value of the services to be ordered; however, the
208 court may not compute the reasonable value of services at a rate
209 less than the federal minimum wage at the time of sentencing.

210 (13)(a) Notwithstanding s. 921.241, every judgment of
211 guilty with respect to any offense governed by this section
212 shall comply with this subsection. Each judgment shall be in
213 writing, signed by the judge, and recorded by the clerk of the
214 circuit court. The judge shall cause to be affixed to every such
215 written judgment of guilty, in open court and in the presence of
216 such judge, the fingerprints of the defendant against whom such
217 judgment is rendered. Such fingerprints shall be affixed beneath
218 the judge's signature to any such judgment. Beneath such

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fingerprints shall be appended a certificate in substantially
the following form:

"I hereby certify that the above and foregoing fingerprints are
of the defendant, (name) , and that they were placed thereon by
said defendant in my presence, in open court, this the ____ day
of ____ (month) ____ (year) ."

Such certificate shall be signed by the judge, whose signature
thereto shall be followed by the word "Judge."

(b) Any such written judgment of guilty, or a certified
copy thereof, shall be admissible in evidence in the courts of
this state as prima facie evidence that the fingerprints
appearing thereon and certified by the judge are the
fingerprints of the defendant against whom such judgment of
guilty was rendered.

(c) At the time the defendant's fingerprints are taken,
the judge shall also cause the defendant's social security
number to be taken. The defendant's social security number shall
be affixed to every written judgment of guilty, in open court,
in the presence of such judge, and at the time the judgment is
rendered. If the defendant is unable or unwilling to provide his
or her social security number, the reason for its absence shall
be indicated on the written judgment.

Section 2. Paragraphs (a) and (c) of subsection (6) of
section 327.35, Florida Statutes, are amended, paragraphs (j)
and (k) are added to that subsection, and subsection (11) is
added to that section, to read:

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327.35 Boating under the influence; penalties; "designated drivers".--

(6) With respect to any person convicted of a violation of subsection (1), regardless of any other penalty imposed:

(a) For the first conviction, the court shall place the defendant on probation ~~for a period not to exceed 1 year~~ and, as a condition of such probation, shall order the defendant to participate in public service or a community work project for a minimum of 50 hours. The court must also, as a condition of probation, order the impoundment or immobilization of the vessel that was operated by or in the actual control of the defendant or any one vehicle registered in the defendant's name at the time of impoundment or immobilization, for a period of 10 days or for the unexpired term of any lease or rental agreement that expires within 10 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant. The impoundment or immobilization order may be dismissed in accordance with paragraph (e) or paragraph (f). ~~The total period of probation and incarceration may not exceed 1 year.~~

(c) For the third ~~or subsequent~~ conviction for an offense that occurs within a period of 10 years after the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 30 days. The court must also, as a condition of probation, order the impoundment or immobilization of the vessel that was operated by or in the actual control of the defendant or any one vehicle registered in the defendant's name at the time of impoundment or immobilization, for a period of 90 days or for the unexpired

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275 term of any lease or rental agreement that expires within 90
276 days. The impoundment or immobilization shall ~~must~~ not occur
277 concurrently with the incarceration of the defendant. The
278 impoundment or immobilization order may be dismissed in
279 accordance with paragraph (e) or paragraph (f). At least 48
280 hours of confinement must be consecutive.

281 (j) For the fourth or subsequent conviction under
282 subparagraph (2)(b)3., the court shall order imprisonment for
283 not less than 2 years. There shall be no substitution of this
284 minimum mandatory term of imprisonment with treatment
285 alternatives. However, the court may, with the consent of the
286 state, order the defendant to serve a minimum mandatory sentence
287 of 1 year of incarceration followed by a period of probation
288 during which the defendant must attend and successfully complete
289 a residential alcohol treatment program, a residential drug
290 abuse treatment program, or be placed on community control. The
291 court must also, as a condition of probation, order the
292 impoundment or immobilization of the vessel that was operated by
293 or in the actual control of the defendant or any one vehicle
294 registered in the defendant's name at the time of impoundment or
295 immobilization for a period of 120 days or for the unexpired
296 term of any lease or rental agreement that expires within 120
297 days. The impoundment or immobilization shall not occur
298 concurrently with the incarceration of the defendant. The
299 impoundment or immobilization order may be dismissed in
300 accordance with paragraph (e) or paragraph (f). At least 48
301 hours of confinement must be consecutive.

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302 (k) A person who owns but was not operating the vessel
303 when an offense under this section occurred may request an
304 evidentiary hearing to determine whether the impoundment or
305 immobilization should occur. If the court finds that the owner
306 was unaware of the defendant's prior conviction and sentence
307 under paragraph (a), paragraph (b), paragraph (c), or paragraph
308 (j) or if the court finds that there are other mitigating
309 circumstances that should allow the owner of the vessel to
310 secure the release of the vessel to the owner's possession, the
311 court may do so by dismissing the order of impoundment or
312 immobilization with or without cost to the vessel owner.

313
314 For the purposes of this section, any conviction for a violation
315 of s. 316.193, a previous conviction for the violation of former
316 s. 316.1931, former s. 860.01, or former s. 316.028, or a
317 previous conviction outside this state for driving under the
318 influence, driving while intoxicated, driving with an unlawful
319 blood-alcohol level, driving with an unlawful breath-alcohol
320 level, or any other similar alcohol-related or drug-related
321 traffic offense, is also considered a previous conviction for
322 violation of this section.

323 (11)(a) Notwithstanding s. 921.241, every judgment of
324 guilty with respect to any offense governed by this section
325 shall comply with this subsection. Each judgment shall be in
326 writing, signed by the judge, and recorded by the clerk of the
327 circuit court. The judge shall cause to be affixed to every such
328 written judgment of guilty, in open court and in the presence of
329 such judge, the fingerprints of the defendant against whom such

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330 judgment is rendered. Such fingerprints shall be affixed beneath
331 the judge's signature to any such judgment. Beneath such
332 fingerprints shall be appended a certificate in substantially
333 the following form:

334
335 "I hereby certify that the above and foregoing fingerprints are
336 of the defendant, (name) , and that they were placed thereon by
337 said defendant in my presence, in open court, this the ____ day
338 of (month) (year) ."

339
340 Such certificate shall be signed by the judge, whose signature
341 thereto shall be followed by the word "Judge."

342 (b) Any such written judgment of guilty, or a certified
343 copy thereof, shall be admissible in evidence in the courts of
344 this state as prima facie evidence that the fingerprints
345 appearing thereon and certified by the judge are the
346 fingerprints of the defendant against whom such judgment of
347 guilty was rendered.

348 (c) At the time the defendant's fingerprints are taken,
349 the judge shall also cause the defendant's social security
350 number to be taken. The defendant's social security number shall
351 be affixed to every written judgment of guilty, in open court,
352 in the presence of such judge, and at the time the judgment is
353 rendered. If the defendant is unable or unwilling to provide his
354 or her social security number, the reason for its absence shall
355 be indicated on the written judgment.

356 Section 3. This act shall take effect October 1, 2006, and
357 shall apply to offenses committed on or after that date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 461 Motor Vehicle License Plates
SPONSOR(S): Jordan
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Military & Veteran Affairs Committee</u>	<u>7 Y, 0 N</u>	<u>Marino</u>	<u>Cutchins</u>
2) <u>Transportation Committee</u>	<u></u>	<u>Thompson</u> <u>J.T.</u>	<u>Miller</u> <u>P.M.</u>
3) <u>Transportation & Economic Development Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>State Administration Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

House Bill 461 removes the July 1, 2006 expiration date currently set by statute for the Florida National Guard free motor vehicle license plate program. This would allow approximately 11,810 Florida National Guard members to continue to be eligible for this benefit.

In 2006-2007, this bill would have an estimated \$561,802 impact on state revenues and an estimated \$35,430 impact on local tax collectors for a total of \$597,232. This bill does not appear to impact license tag sale funds distributed to the Grants and Donations Trust Fund, managed by the Florida Department of Veterans Affairs. See Fiscal Analysis & Economic Impact Statement below for details.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: This bill would remove the license taxes and fees for one standard license plate for each active member of the Florida National Guard.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

The 2005-2006 General Appropriations Implementing Act created s. 320.0846, F.S., which allows any owner or lessee of a motor vehicle, who resides in Florida and is an active member of the Florida National Guard (FNG), to be issued one standard license plate without charge. The 2005-2006 General Appropriations Act (GAA) appropriated \$10,632,936 to the Highway Safety Operating Trust Fund for the Florida Department of Highway Safety and Motor Vehicle's (DHSMV) purchase of license plates. The department indicates that the FNG fee waiver program was covered by this appropriation in FY 2005-2006. Section 320.0846, F.S., is set to expire on July 1, 2006.

Under this section, FNG members may only receive one plate without charge, and any additional plates must be paid for in full. Also, this section does not waive any additional applicable fees required to purchase a specialty plate. The FNG member must provide proof of eligibility upon application for the free license plate.

In addition to this free plate program, under ss. 320.084 and 320.0842, F.S., certain low-income permanently and totally disabled veterans and wheelchair bound veterans are provided free license plates by the state. These sections and their subsequent free plate programs have no expiration.

Section 320.089, F.S., allows certain militarily affiliated persons, including members of the Florida National Guard, to stamp special plates with words such as "National Guard," "Pearl Harbor Survivor," "Combat-wounded veteran," or "U.S. Reserve," as appropriate, in order to indicate their affiliation upon payment of the license tax. The first \$100,000 in proceeds from these plates goes into the Grants and Donations Trust Fund, managed by the Florida Department of Veterans Affairs (FDVA), for the purpose of providing common benefits to the residents of the state run veterans' nursing homes, such as recreational equipment, improved facilities, and recreational supplies.

The DHSMV reports that 46,977¹ plates are stamped under s. 320.089, F.S., and of those, 1,884 license plates are stamped with "National Guard."

Other states allow for similar free license plates for certain veterans, such as Ex-POWs, Pearl Harbor survivors, etc. However, Florida appears to be the only state to offer free license plates to active National Guard members².

The Department of Military Affairs (DMA) reports there are presently 11,810³ active FNG members.

¹ Email from Steven Fielder. Department of Highway Safety and Motor Vehicles. January 13, 2006.

² Florida House of Representatives Committee on Military & Veteran Affairs. Veterans Benefits by State DRAFT. January 2005.

³ Conversation with Glenn Sutphin, Legislative Director Florida Department of Military Affairs. January 12, 2006.

Effect of Proposed Changes:

This bill removes the July 1, 2006 expiration date in s. 320.0846, F.S. This would allow the FNG free motor vehicle license plate program to become permanent. This bill does not remove the yearly requirement for FNG motor vehicle owners or lessees to keep their vehicle registrations up-to-date.

The Grants and Donations Trust Fund under the FDVA does not appear to be impacted, since the other plates offered under s. 320.089, F.S., would offset the proceeds from the loss of revenue from the "National Guard" stamped plates.

Proviso language in line 2575 of the 2005-2006 GAA provided funding for the one-year FNG free license plate program. The department has indicated that its FY 2006-2007 budget request will be for the same amount appropriated in FY 2005-2006.

This bill would take effect upon becoming law.

C. SECTION DIRECTORY:

Section 1: Amends s. 320.0846, F.S., by removing the section expiration date of July 1, 2006.

Section 2: Provides for act to take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Department of Highway Safety and Motor Vehicles (DHSMV) conducted a 2005-2006 fiscal impact study⁴ of this program in 2005 and estimated a recurring cost of \$632,154 based on 12,500 FNG members using this benefit during 2005-2006.

Using calculations based on the fees in the 2005 DHSMV fiscal study and the current 11,810 FNG membership strength, this bill would have an estimated revenue impact to the state for a loss of **\$561,802 for 2006-2007.**

	STATUE REF.	FEE	REVENUE LOSS	Fee Distribution - Trust Fund
AVERAGE LICENSE TAX FEE:	320.08	\$36.97	\$462,154	State Transportation TF
TRUST FUND FEES:				
Air Pollution Control Fee	320.03(6)	\$1.00	\$12,500	Air Pollution Control Trust Fund
FRVIS FEE	320.03(5)	\$0.50	\$6,250	Highway Safety Operating TF
Law Enf. Radio Sys Fee	320.0802	\$1.00	\$12,500	Law Enforcement Radio System TF
Surcharge St. Trans. Fee	320.0804	\$2.00	\$25,000	State Transportation TF
Trans. Disadvantage Fee	320.03(9)	\$1.50	\$18,750	Transportation Disadvantage TF
Advanced Replacement Fee	320.06(b)	\$2.00	\$25,000	Highway Safety Operating TF
EMS Fee	320.0801	\$0.10	\$1,250	Emergency Medical Service Trust Fund
Juvenile Justice Fee	320.08046	\$1.00	\$12,500	58% General Revenue – 42% Grants & Donation TF – Dept. Juvenile Justice

⁴ Florida Department of Highway Safety and Motor Vehicles. Exempting Registration and Applicable Fees for Florida National Guard Fiscal Impact Study. On file with Committee on Military & Veteran Affairs.

TRUST FUND FEES:	STATUE REF.	FEE	REVENUE LOSS	Fee Distribution - Trust Fund
Retroreflectorization Fee	320.06(3)(b)	\$0.50	\$6,250	Highway Safety Operating TF
Service Fee	320.04	\$4.00	\$12,500	\$1 Hwy Safety Oper. TF (\$3 goes to tax collectors)
		<u>\$13.60</u>	<u>\$170,000</u>	
		Total loss to state:	<u>\$561,802</u>	For 11,810 FNG members

The Grants and Donations Trust Fund under the FDVA does not appear to be impacted. There would be no loss of revenue for the Trust Fund from the 1,884 "National Guard" plates, under s. 320.089, F.S., since the other stamped plates offered under s. 320.089, F.S., would make up the difference to cover the first \$100,000 in proceeds that are to go to the Trust Fund.

2. Expenditures:

There are no known or expected fiscal impacts on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Since \$3 of each license plate sold goes toward a service fee for tax collectors at the local level, they would lose an estimated \$35,430 collectively.

2. Expenditures:

There are no known or expected fiscal impacts on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

FNG members who use this benefit would typically each save \$50.57⁵, the estimated average registration fee calculated by the FDHSMV. FNG members would still be required to pay applicable fees for additional standard plates and specialty or personalized license plates.

D. FISCAL COMMENTS:

This DHSMV 2005-2006 fiscal impact study⁶ is based on exempting 12,500 FNG registrants annually from paying the annual license tax and applicable required Trust Fund fees. This study uses \$50.57 as the average registration fee. Of the \$50.57, \$13.60 is distributed to various trust funds as fees.

For this analysis, the committee staff used the current FNG strength of 11,810 to calculate the 2006-2007 fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The estimated statewide loss of \$35,430 to local tax collectors, would be an insignificant fiscal impact, and therefore the bill is exempt from the mandates provision.

⁵ Florida Department of Highway Safety and Motor Vehicles. Exempting Registration and Applicable Fees for Florida National Guard Fiscal Impact Study. On file with Committee on Military & Veteran Affairs.

⁶ ib id.

2. Other:

There do not appear to be any constitutional issues with this bill.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

HB 461

2006

A bill to be entitled
An act relating to motor vehicle license plates; amending
s. 320.0846, F.S.; removing expiration of provisions for
free license plates to active members of the Florida
National Guard; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 320.0846, Florida Statutes, is amended
to read:

320.0846 Free motor vehicle license plates to active
members of the Florida National Guard.--

(1) Any owner or lessee of a motor vehicle who resides in
this state and is an active member of the Florida National Guard
may, upon application and proof of eligibility, be issued one
standard license plate without charge. Applications for any
additional license plates must be accompanied by appropriate
fees established in this chapter.

(2) Eligible applicants of the Florida National Guard may
apply for a specialty license plate as provided in s. 320.08056
upon payment of the fees required in that section. All other
fees will be waived. Applications for any additional specialty
license plates must be accompanied by all appropriate fees
established in this chapter.

~~(3) This section expires July 1, 2006.~~

Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 627 CS

License Plates

SPONSOR(S): Brummer

TIED BILLS:

IDEN./SIM. BILLS: SB 538

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Criminal Justice Committee</u>	<u>6 Y, 1 N, w/CS</u>	<u>Kramer</u>	<u>Kramer</u>
2) <u>Transportation Committee</u>	<u></u>	<u>Thompson J.T.</u>	<u>Miller P.M.</u>
3) <u>Transportation & Economic Development Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>Justice Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

HB 627 w/CS requires the Department of Highway Safety and Motor Vehicles to develop a DUI license plate that must be displayed on any vehicle that is operated by a person whose driving privileges are restricted pursuant to s. 322.271, F.S. because of a conviction related to driving under the influence.

The license plate must be a bright coral color that is easily distinguished from other license plates issued by the department. The bill requires the first three letters of the plate to be "DUI". The bill requires an additional annual surcharge of \$20 to be collected for each DUI plate and the proceeds from the surcharge to be deposited into the Trauma Services Trust Fund.

This bill becomes effective July 1, 2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill requires a person who has been convicted of DUI to use a DUI license plate in certain circumstances.

B. EFFECT OF PROPOSED CHANGES:

Upon conviction for driving under the influence (DUI)¹, the court must revoke the driver's license of the convicted person as follows:

- For a first conviction, the driver's license must be revoked for not less than 180 days or more than 1 year.
- For a second conviction for an offense that occurs within 5 years after the date of a prior conviction, the driver's license must be revoked for not less than 5 years.
- For a third conviction for an offense that occurs within a period of 10 years after the date of a prior conviction, the driver's license must be revoked for not less than 10 years.
- For a fourth conviction, the driver's license must be permanently revoked.²

Section 322.271, F.S. authorizes the department to issue a restricted license that is commonly known as a "hardship" license upon a showing that the revocation of an offender's license causes a serious hardship and precludes the person's carrying out his or her normal business, occupation, trade or employment and that the use of the person's license in the normal course of his or her business is necessary to the proper support of the person or his or her family. The following are the two types of restricted driving privileges for a DUI:

- A driving privilege restricted to business purposes only, means a driving privilege that is limited to any driving necessary to maintain livelihood, including driving to and from work, necessary on-the-job driving, driving for educational purposes, and driving for church and for medical purposes.
- A driving privilege restricted to employment purposes only, means a driving privilege that is limited to driving to and from work and any necessary on-the-job driving required by an employer or occupation.

A person whose license has been revoked for a DUI offense for 5 years or less is required to wait 12 months before applying for a hardship license. A person whose license has been revoked for more than 5 years is required to wait 24 months before applying for a hardship license.³ A person whose license has been permanently revoked because of a fourth DUI conviction is not eligible to apply for a hardship license.⁴

HB 627 w/CS requires the Department of Highway Safety and Motor Vehicles to develop a DUI license plate that must be displayed on any vehicle that is operated by a person whose driving privileges are restricted pursuant to s. 322.271, F.S. because of a conviction relating to driving under the influence in violation of s. 316.193, F.S.

The license plate must be a bright coral color that is easily distinguished from other license plates issued by the department. The bill requires the word "Florida" to appear at the top of the plate and the first three letters of the plate to be "DUI". The bill requires an additional annual surcharge of \$20 to be

¹s. 316.193, F.S.

² s. 322.28(2)(a),

³ s. 322.271(2)(b), F.S.

⁴ s. 322.28(2)(e), F.S.

collected for each DUI plate and the proceeds from the surcharge to be deposited into the Trauma Services Trust Fund created by s. 395.4035, F.S.⁵

C. SECTION DIRECTORY:

Section 1. Requires a driver whose driving privilege is restricted for a DUI offense to have a DUI license plate; provides for the design of the plate; and provides for the collection and use of a \$20 surcharge for the license plate.

Section 2. Provides effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Department of Highway Safety and Motor Vehicles (DHSMV) estimates that the bill will generate \$240,000 annually from use fees for deposit into the Trauma Services Trust Fund based on the issuance of 12,000 hardship licenses per year.

2. Expenditures:

The department estimates that the bill will have an annual \$44,520 impact for the design, manufacture and distribution of a new license plate - \$15,000 in personnel costs and \$29,520 in license plate costs. The bill will also require contracted programming modifications to the Motor Vehicle software systems at an estimated cost of \$26,915.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A person who is issued a DUI license plate will be required to pay a \$20 annual surcharge for the license plate.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

⁵ Section 395.4035, F.S. creates the Trauma Services Trust Fund which is required to be used for the development and support of a system of state-sponsored trauma centers.

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

Special license plate: In *Goldschmitt v. State*,⁶ the Second District Court of Appeal ruled on the constitutionality of a DUI offender being required to place a bumper sticker on his vehicle which read, "CONVICTED D.U.I. – RESTRICTED LICENSE". The court rejected the offender's claim that the order infringed upon his First Amendment rights by "forcing him to broadcast an ideological message via the bumper sticker."⁷ The court also ruled that the bumper sticker did not constitute cruel and unusual punishment. See also, *Lindsay v. State*, 606 So.2d 652 (Fla. 4th DCA 1992)(requirement that probationer place and pay for advertisement in newspaper consisting of defendant's mug shot, name and caption indicating defendant was "DUI –convicted" did not violate constitution).

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the bill's sponsor, this legislation is intended to address a public safety issue by providing notice to other drivers that a vehicle is being operated by a person whose driving privileges are restricted due to a violation of driving under the influence.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Criminal Justice Committee adopted three amendments. The first amendment changed the color of the license plate from bright pink to bright coral. The second amendment removed language from the original bill which would have allowed a law enforcement officer to stop any vehicle that bears a DUI plate without probable cause to check the operator for compliance with the restrictions provided in s. 316.193, F.S. The third amendment corrected a statutory reference in the bill.

⁶ *Goldschmitt v. State*, 490 So.2d 123 (Fla. 2nd DCA 1986)

⁷ *Goldschmitt*, 490 So.2d at 125.

HB 627

2006
CS

CHAMBER ACTION

The Criminal Justice Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to license plates; requiring a driver whose driving privileges are restricted because of a conviction related to driving under the influence to have a DUI plate on any vehicle that he or she operates; providing for the Department of Highway Safety and Motor Vehicles to develop such plate; providing requirements for such a plate; providing an annual surcharge for the plate; providing for the use of such surcharge; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The Department of Highway Safety and Motor Vehicles shall develop a DUI license plate that must be displayed on any vehicle that is operated by a person whose driving privileges are restricted pursuant to s. 322.271, Florida Statutes, because of a conviction related to driving

HB 627

2006
CS

23 under the influence in violation of s. 316.193, Florida
24 Statutes.

25 (2) The plate shall be a bright coral color that is easily
26 distinguishable from other plates issued in this state. The word
27 "Florida" must appear at the top of the plate, and the first
28 three letters in the alphanumeric numbering system used on the
29 plate must be "DUI".

30 (3) In addition to the other license plate fees and
31 charges collected, an annual surcharge of \$20 shall be collected
32 for each DUI plate. The proceeds from the surcharge shall be
33 deposited into the Trauma Services Trust Fund created by s.
34 395.4035, Florida Statutes, and used for purposes provided in
35 that section.

36 Section 2. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 627

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Transportation

Representative(s) Brummer offered the following:

Amendment (with directory and title amendments)

Between line(s) 35 and 36 insert:

Section 2. Subsection (1) of section 322.271, Florida
Statutes, is amended to read:

322.271 Authority to modify revocation, cancellation, or
suspension order.--

(1)(a) Upon the suspension, cancellation, or revocation of
the driver's license of any person as authorized or required in
this chapter, except a person whose license is revoked as a
habitual traffic offender under s. 322.27(5) or a person who is
ineligible to be granted the privilege of driving on a limited
or restricted basis under subsection (2), the department shall
immediately notify the licensee and, upon his or her request,
shall afford him or her an opportunity for a hearing pursuant to
chapter 120, as early as practicable within not more than 30
days after receipt of such request, in the county wherein the
licensee resides, unless the department and the licensee agree
that such hearing may be held in some other county.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

(b) A person whose driving privilege has been revoked under s. 322.27(5) may, upon expiration of 12 months from the date of such revocation, petition the department for reinstatement of his or her driving privilege. Upon such petition and after investigation of the person's qualification, fitness, and need to drive, the department shall hold a hearing pursuant to chapter 120 to determine whether the driving privilege shall be reinstated on a restricted basis solely for business or employment purposes.

(c) For the purposes of this section, the term:

1. "A driving privilege restricted to business purposes only" means a driving privilege that is limited to any driving necessary to maintain livelihood, including driving to and from work, necessary on-the-job driving, driving for educational purposes, and driving for church and for medical purposes.

2. "A driving privilege restricted to employment purposes only" means a driving privilege that is limited to driving to and from work and any necessary on-the-job driving required by an employer or occupation.

Driving for any purpose other than as provided by this paragraph is not permitted by a person whose driving privilege has been restricted to employment or business purposes. In addition, a person whose driving privilege is restricted to employment or business purposes remains subject to any restriction that applied to the type of license which the person held at the time of the order of suspension, cancellation, or revocation. As a condition of issuance of restricted driving privileges the department shall also restrict the person whose driving

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

51 privilege has been revoked under s. 322.28(2) to only operating
52 a vehicle that displays a DUI license plate.

53

54 ===== D I R E C T O R Y A M E N D M E N T =====

55 Remove line(s) and insert:

56

57

58 ===== T I T L E A M E N D M E N T =====

59 Remove line(s) and insert:

60

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 791

Road Designations

SPONSOR(S): Fields

TIED BILLS:

IDEN./SIM. BILLS: SB 1738

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee		Rousseau <i>T.D.R.</i>	Miller <i>P.M.</i>
2) Transportation & Economic Development Appropriations Committee			
3) State Infrastructure Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

Section 334.071, F.S., provides for legislative designations of transportation facilities for honorary or memorial purposes, or to distinguish a particular facility. The legislative designations do not "officially" change the current names of the facilities, nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

HB 791 designates six honorary roads. They are:

- A portion of Main Street between West 6th Street and West 8th Street in Duval County is designated as "Ms. Eddie Mae Steward Avenue."
- A portion of Main Street between West 37th Street and West 46th Street in Duval County is designated as "Dr. Mary L. Austin Jones Avenue."
- A portion of Main Street between West 8th Street and West 18th Street in Duval County is designated as "Mrs. Flossie Brunson Avenue."
- A portion of U.S. Highway 1 between Finch Avenue and Trout River Boulevard in Duval County is designated as "Dr. Robert L. Brown, Sr., Highway."
- A portion of Lem Turner Road between Interstate 95 and Edgewood Avenue in Duval County is designated as "Ms. Barbara Van Blake Parkway."
- A portion of Florida First Coast Highway beginning at Burney Road and continuing north through the 5500 block of Florida First Coast Highway in Duval County is designated as "Ms. MaVynee 'The Beach Lady' Betsch Highway."

The Florida Department of Transportation (FDOT) is directed to erect suitable markers to denote the honorary designations. The markers will cost an estimated \$4,800. This does not include maintenance or replacement costs.

HB 791 does not create any constitutional or other legal issues. It takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

HB 791 does not implicate any House Principles.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 334.071, F.S., provides for legislative designations of transportation facilities for honorary or memorial purposes, or to distinguish a particular facility. The legislative designations do not “officially” change the current names of the facilities, nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

The statute requires FDOT to place a marker at each terminus or intersection of an identified road or bridge, and to erect other markers it deems appropriate for the transportation facility. The statute also provides that a city or county must pass a resolution in support of a particular designation before road markers are erected. Additionally, if the designated road segment extends through multiple cities or counties, a resolution must be passed by each affected local government.

Based on FDOT records, some 1,079 honorary road and bridge designations have been approved since 1922, most of them by the Legislature. Some public roads and bridges have multiple or overlapping designations.

Effect of HB 791

The bill proposes six honorary road designations. They are:

- A portion of Main Street between West 6th Street and West 8th Street in Duval County is designated as “Ms. Eddie Mae Steward Avenue.”
- A portion of Main Street between West 37th Street and West 46th Street in Duval County is designated as “Dr. Mary L. Austin Jones Avenue.”
- A portion of Main Street between West 8th Street and West 18th Street in Duval County is designated as “Mrs. Flossie Brunson Avenue.”
- A portion of U.S. Highway 1 between Finch Avenue and Trout River Boulevard in Duval County is designated as “Dr. Robert L. Brown, Sr., Highway.”
- A portion of Lem Turner Road between Interstate 95 and Edgewood Avenue in Duval County is designated as “Ms. Barbara Van Blake Parkway.”
- A portion of Florida First Coast Highway beginning at Burney Road and continuing north through the 5500 block of Florida First Coast Highway in Duval County¹ is designated as “Ms. MaVynne ‘The Beach Lady’ Betsch Highway.”

The Florida Department of Transportation (FDOT) is directed to erect suitable markers to denote the honorary designations.

The Duval County designations will be to honor Ms. Eddie Mae Steward, one of Jacksonville’s leading advocates for civil and human rights; Dr. Mary L. Austin Jones, a reverend in the City of Jacksonville whose outreach and ministries comfort and spiritually console families and individuals throughout the community; Mrs. Flossie Brunson, who nearly single-handedly organized her community to turn a once blighted neighborhood into one that blossoms anew with energies and hope for its young people, young families and seniors; Dr. Robert L. Brown, Sr., a doctor in the City of Jacksonville who was a change

¹ This segment of highway is actually located in Nassau County, see Drafting Issues or Other Comments section of this analysis.

agent for economic development efforts; and Ms. Barbara Van Blake, who taught mathematics in Florida for 12 years and was also an active supporter of civil rights and labor union organizing.

The Nassau County designation will honor Ms. MaVynee 'The Beach Lady' Betsch, the official historian and matriarch of American Beach.

C. SECTION DIRECTORY:

Sections 1: Designates six honorary roads in Duval County

A portion of Main Street between West 6th Street and West 8th Street in Duval County is designated as "Ms. Eddie Mae Steward Avenue."

Section 2: A portion of Main Street between West 37th Street and West 46th Street in Duval County is designated as "Dr. Mary L. Austin Jones Avenue."

Section 3: A portion of Main Street between West 8th Street and West 18th Street in Duval County is designated as "Mrs. Flossie Brunson Avenue."

Section 4: A portion of U.S. Highway 1 between Finch Avenue and Trout River Boulevard in Duval County is designated as "Dr. Robert L. Brown, Sr., Highway."

Section 5: A portion of Lem Turner Road between Interstate 95 and Edgewood Avenue in Duval County is designated as "Ms. Barbara Van Blake Parkway."

Section 6: A portion of Florida First Coast Highway beginning at Burney Road and continuing north through the 5500 block of Florida First Coast Highway in Duval County is designated as "Ms. MaVynee 'The Beach Lady' Betsch Highway."

Section 7: Specifies an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

FDOT estimates that the cost to erect suitable road markers is approximately \$800 per designation, for a marker at each end of the designated road area. The total signage cost of HB 791 is \$4,800. The expenditure is from the State Transportation Trust Fund. FDOT also is responsible for any future maintenance and replacement cost, which is indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

FDOT has sufficient rulemaking authority to implement this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The portion of Florida First Coast Highway to be designated as "Ms. MaVynee 'The Beach Lady' Betsch Highway", is actually located in Nassau County. The sponsor has indicated that he will offer an amendment to correct this drafting error.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HB 791

2006

A bill to be entitled
An act relating to road designations; designating Ms.
Eddie Mae Steward Avenue, Dr. Mary L. Austin Jones Avenue,
Mrs. Flossie Brunson Avenue, Dr. Robert L. Brown, Sr.,
Highway, Ms. Barbara Van Blake Parkway, and Ms. MaVynnee
"The Beach Lady" Betsch Highway in Duval County; directing
the Department of Transportation to erect suitable
markers; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Ms. Eddie Mae Steward Avenue designated;
Department of Transportation to erect suitable markers.--

(1) That portion of Main Street between West 6th Street
and West 8th Street in Duval County is designated as "Ms. Eddie
Mae Steward Avenue."

(2) The Department of Transportation is directed to erect
suitable markers designating Ms. Eddie Mae Steward Avenue as
described in subsection (1).

Section 2. Dr. Mary L. Austin Jones Avenue designated;
Department of Transportation to erect suitable markers.--

(1) That portion of Main Street between West 37th Street
and West 46th Street in Duval County is designated as "Dr. Mary
L. Austin Jones Avenue."

(2) The Department of Transportation is directed to erect
suitable markers designating Dr. Mary L. Austin Jones Avenue as
described in subsection (1).

HB 791

2006

28 Section 3. Mrs. Flossie Brunson Avenue designated;
29 Department of Transportation to erect suitable markers.--

30 (1) That portion of Main Street between West 8th Street
31 and West 18th Street in Duval County is designated as "Mrs.
32 Flossie Brunson Avenue."

33 (2) The Department of Transportation is directed to erect
34 suitable markers designating Mrs. Flossie Brunson Avenue as
35 described in subsection (1).

36 Section 4. Dr. Robert L. Brown, Sr., Highway designated;
37 Department of Transportation to erect suitable markers.--

38 (1) That portion of U.S. Highway 1 between Finch Avenue
39 and Trout River Boulevard in Duval County is designated as "Dr.
40 Robert L. Brown, Sr., Highway."

41 (2) The Department of Transportation is directed to erect
42 suitable markers designating Dr. Robert L. Brown, Sr., Highway
43 as described in subsection (1).

44 Section 5. Ms. Barbara Van Blake Parkway designated;
45 Department of Transportation to erect suitable markers.--

46 (1) That portion of Lem Turner Road between Interstate 95
47 and Edgewood Avenue in Duval County is designated as "Ms.
48 Barbara Van Blake Parkway."

49 (2) The Department of Transportation is directed to erect
50 suitable markers designating Ms. Barbara Van Blake Parkway as
51 described in subsection (1).

52 Section 6. Ms. MaVynnee "The Beach Lady" Betsch Highway
53 designated; Department of Transportation to erect suitable
54 markers.--

HB 791

2006

55 (1) That portion of Florida First Coast Highway beginning
56 at Burney Road and continuing north through the 5500 block of
57 Florida First Coast Highway in Duval County is designated as
58 "Ms. MaVynee 'The Beach Lady' Betsch Highway."

59 (2) The Department of Transportation is directed to erect
60 suitable markers designating Ms. MaVynee "The Beach Lady" Betsch
61 Highway as described in subsection (1).

62 Section 7. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **HB 791**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Transportation
Representative(s) Fields offered the following:

Amendment (with title amendment)

Remove line(s) 57 and insert:

Florida First Coast Highway in Nassau County is designated as

===== T I T L E A M E N D M E N T =====

Remove line(s) 5-8 and insert:

Highway, Ms. Barbara Van Blake Parkway in Duval County, and Ms.
MaVynee "The Beach Lady" Betsch Highway in Nassau County;
directing the Department of Transportation to erect suitable
markers; providing an effective date.

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS - Revised

BILL #: PCB TR 06-01 General Revenue Bonds for Transportation/Resolution & Referendum
SPONSOR(S): Transportation Committee
TIED BILLS: PCB TR 06-02 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Transportation Committee		Pugh <u>BJP</u>	Miller <u>P.M.</u>
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The Florida Department of Transportation (FDOT) relies on a variety of state and federal revenue sources to finance its \$36 billion Five-Year Work Program. About 2 percent of the agency's funding is derived from general-obligation bonds, specifically for right-of-way acquisition and construction of bridges.

PCB TR 06-01 is a proposed joint resolution seeking voter approval of general obligation bonds to finance state transportation capital projects and right-of-way acquisition. The outstanding amount of general obligation bonds issued for these transportation purposes cannot exceed 25 percent of the state's total tax revenues of the previous two years, pursuant to the proposed section 11(g), Article VII to the state constitution. General obligation bonds (also called "state bonds") pledge the full faith and credit of the State of Florida.

This proposal is being offered as a constitutional amendment because general obligation bonds must be approved by voters, pursuant to Article VII of the state constitution and to s. 215.59, F.S.

PCB TR 06-01 must be approved by a three-fifths vote of the House and the Senate before it can be placed on the next statewide ballot in November 2006.

By itself, the amendment has a minimal fiscal impact because the bonds must be issued "in the manner provided by general law," meaning the Legislature must pass implementing legislation before any bonds can be sold. The state will incur an estimated \$40,000 for publication costs.

The joint resolution does not contain a specific effective date. Therefore, if adopted by the voters, it will take effect January 4, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: If the proposed constitutional amendment and implementing legislation become law, FDOT potentially will have access to hundreds of millions of dollars to build more transportation infrastructure. As such, this legislation can be viewed as facilitating growth in government. Viewed from a larger context, the legislation promotes greater government spending on much-needed public infrastructure to energize Florida's economic development.

B. EFFECT OF PROPOSED CHANGES:

Background

Bonds, generally

The most common types of bonds issued by governmental entities are general obligation bonds and revenue bonds. General obligation bonds, also called "state bonds" even though local governmental entities also can issue them, pledge the full faith and credit of the issuing governmental entity. The debt service on these bonds typically is paid with identified revenues within the state or local government's treasury. Schools, highways, and environmental preserves are typical types of public infrastructure purchased with general obligation bonds. On the other hand, the debt service on revenue bonds is paid with funds generated by the infrastructure that built using the bond proceeds. Typical infrastructure projects built with revenue bonds are toll highways and wastewater treatment facilities.

Florida's constitution and statutes include several examples of both types of bond programs. Under Florida law, general obligation bonds must be approved by voters before they can be issued. Revenue bonds do not have that requirement, although there may be instances where local governments have asked their voters whether they support the issuance.

Pursuant to s. 215.59, F.S.:

"(1) The issuance of state bonds pledging the full faith and credit of the state, pursuant to s. 11, Art. VII of the State Constitution, is hereby authorized upon approval by vote of the electors, except as otherwise authorized by said s. 11, Art. VII. The amount of such state bonds, other than refunding bonds, the projects to be financed thereby, and the date of such vote of the electors shall be as provided by law.

(2) The issuance of revenue bonds payable solely from funds derived directly from sources other than state tax revenues, pursuant to s. 11(d), Art. VII of the State Constitution, is hereby authorized without a vote of the electors in the manner provided by law.

(3) All bonds hereby authorized shall be issued in the manner provided by the Constitution or by the division in the manner provided by this act, subject to all other applicable provisions of law."

Bonds issued by most state governmental entities in Florida must follow the requirements of the State Bond Act, ss. 215.57-215.83, F.S. Even those entities that can issue their own bonds, without assistance of the state Division of Bond Finance (the Division), generally follow the State Bond Act's guidelines and procedures.

According to the Division's *2005 Debt Affordability Study*,¹ state tax-supported debt totaled \$17.5 billion and the debt from revenue bonds and other self-supporting debt (for which the state is not legally responsible) totaled \$5 billion.

¹ Report is available at <http://www.sbafla.com/bond/pdf/publications/DARrpt05.pdf>

Pursuant to s. 215.98, F.S., the Legislature has expressed as state policy "prudence in undertaking the authorization and issuance of debt." It has established a debt target and a debt cap as thresholds to guide issuance of state debt. The debt target is defined as a ratio of debt service to revenue available to pay debt service on tax-supported debt, not to exceed 6 percent. The debt cap is established as a 7-percent ratio. As of June 30, 2005, the state's debt ratio was calculated to be 5.36 percent.

Over the next 10 years, based on projected state revenue growth and the payoff of some bonds, the state's bonding capacity will be \$23.6 billion from 2006-2015. Existing bond-financed programs will consume approximately \$9.6 billion of that, leaving approximately \$16.7 billion in bond capacity available over the next 10 years. That capacity is spread unevenly over the 10-year period; for the first four years of the decade, only about \$1.6 billion is available for new bond programs within the 6-percent target and about \$6.4 billion is available within the 7-percent cap, according to the Division's 2005 study.

Section 215.98, F.S., also requires that if the 6-percent target debt ratio will be exceeded by a proposed bond issuance, the authorization of this debt must be accompanied by a legislative statement of determination that such authorization and issuance is in the state's best interests. The Legislature is prohibited from authorizing the issuance of additional state tax-supported debt that would cause the debt ratio to exceed the 7-percent cap unless the Legislature determines that such additional debt is necessary to address a critical state emergency, which is not defined.

State transportation bonds

FDOT manages one of the state's largest and most uniquely packaged budgets. The Legislature approves an annual operating and capital outlay budget, and a Five-Year Work Program that, for all practical purposes, locks in the agency's primary expenditures over the next five years. For FY 05-06, FDOT's budget was \$8.1 billion, about \$7 billion of which is the first year of the Work Program's expenditures. Additionally, the Legislature adopted the agency's \$34.9 billion 2006-2010 Work Program.

Although bond-financing programs are about 6 percent of FDOT's overall budget, they play important roles in the agency's ability to meet transportation needs. The agency has three programs financed with revenue bonds: the Florida Turnpike Enterprise, the State Infrastructure Bank program, and individual bonds supporting transportation and environmental improvements at several non-Turnpike toll facilities operated by FDOT. The agency also contributes \$25 million annually to pay debt service on \$324 million in bonds issued by the Florida Ports Financing Commission.

FDOT has only one general obligation bond program. In 1988, Florida voters approved a constitutional amendment creating section 17, Article VII of the state constitution, authorizing the issuance of general obligation bonds to acquire right-of-way for roads and to construct bridges. The Legislature approved the use of these bonds for the advance acquisition of right-of-way land beginning in 1991 and bridge construction beginning in 1994. The Legislature also provided that the bonds' debt service was to be paid from the state fuel-tax revenues. About three-fourths of the funds from these bonds are being spent on right-of-way acquisition and one-fourth on bridge construction.

Current law provides that a maximum of 7 percent of state transportation tax collections, not to exceed \$275 million, may be used to pay the annual debt service on these general obligation bonds.

As of December 2005, a total of \$1.86 billion in right-of-way bonds have been issued. Examples of major projects whose right-of-way has been purchased using these bond funds include: \$66.3 million for phase I of the Miami Intermodal Center; a \$26.4 million bond fund grant to the Orlando-Orange County Expressway Authority to help purchase right-of-way for the Western Beltway Part A project; \$8.5 million in bond funds for the Brannon Field Chaffee project in Duval County; \$34.2 million in bond funds for the Seminole Expressway; and \$15.9 million for the Polk Parkway project.

During the 20-year period from fiscal years 1990-91 through 2009-10, FDOT estimates that it will have leveraged \$2.7 billion in right-of-way bond proceeds to finance approximately \$18.1 billion in land acquisition.

Since 1995, approximately \$800 million in these bond proceeds have been committed to the replacement of bridges on the State Highway System, according to FDOT staff. With other funding sources considered, this \$800 million has been used to leverage \$1.6 billion in total project costs. Some of the major bridge projects financed with these bond funds are: the Fuller Warren Bridge in Jacksonville; the Interstate-10 bridge over Blackwater Creek in Northwest Florida; and the Flagler Memorial Bridge.

Transportation infrastructure needs

Several studies in recent years by public and private institutions have concluded that Florida's transportation infrastructure is not keeping pace with its growth in population and number of visitors. These have concluded that Florida has unfunded state transportation needs ranging from \$38 billion to \$48 billion; this does not include projected transportation needs by cities and counties.

Exacerbating the backlog is the unprecedented growth in the costs associated with transportation construction, due in large part to increased international and regional demand. Recent reports by FDOT indicate that asphalt prices have increased nearly 22 percent per ton; concrete prices have increased nearly 33 percent per cubic yard; and steel prices have increased from 6 percent to nearly 19 percent per pound, depending on the type of steel. Right-of-way costs in Florida also are increasing, by as much as 10 percent annually in some areas, FDOT has reported.

Constitutional amendments

Article XI, sections 1 and 5, of the Florida Constitution provide for amendment to the Constitution by the legislative process. The Legislature proposes amendments to the Constitution by joint resolution passed by three-fifths of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's Office, unless a special election has been scheduled for the express purpose of having the electorate vote on the proposed amendment.

Provisions of PCB TR 06-01

The draft joint resolution would add a subsection (g) to the existing section 11, Article VII of the state Constitution, authorizing issuance of new general obligation bonds for transportation infrastructure and right-of-way acquisition. The bonds' debt service would be paid with state revenues, and would pledge the full faith and credit of the state.

The bonds' outstanding principle could never exceed 25 percent of the total state tax revenues of the previous two fiscal years. According to the Fall 2005 Florida Revenue Estimating Conference, Florida's total tax receipts in FY 05-06 and FY 06-07 total about \$40 billion each year. As a rough estimate, the total amount of bonds that could be issued if this amendment passed is about \$20 billion. However, the total amount issued would ultimately be decided by the Legislature, when appropriating the debt service.

The bonds also would be issued "in the manner provided by general law," meaning that the issuance would be governed by the State Bond Act procedures and requirements and any implementing legislation the Legislature additionally approved.

The draft joint resolution also includes a ballot summary that is similar to the wording of the proposed subsection.

C. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Minimal. Article XI, Section 5, of the Florida Constitution requires that each proposed amendment to the constitution be published in a newspaper of general circulation in each county two times prior to the election where it will be considered. The state Division of Elections estimated that the cost of placing these advertisements is about \$40,000 per amendment.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

If PCB TR 06-01 passes the Legislature, then pursuant to s.100.381, F.S., the Revenue Estimating Conference shall prepare a fiscal impact statement as required in s.100.371(6), F.S., no later than 80 days before the election. The fiscal impact statement shall be separately contained and appear on the ballot following the proposed amendment's ballot summary.

No bonds will be issued until implementing statutory language becomes law.

Staff is researching the amount of bonds that could be issued, based on the proposed constitutional amendment's provision that the outstanding principle can not exceed 25 percent of the state's total tax revenues in the previous two years. Volume 21 (Fall 2005) of the Florida Revenue Estimating Conference's Revenue Analysis includes a chart on page 35 estimates that the total state taxation in FY 05-06 will be \$39.9 billion, and in FY 06-07 will be \$40.236 billion. These figures include revenues from state taxes, fees, licenses, and charges. Twenty-five percent of the total taxation for those two fiscal years is about \$20 billion. Whether the constitutional construction of the phrase "state tax revenues" means revenue from only "taxes," or if the definition is broader, is one of the issues being researched by committee and House fiscal staff.

Additionally, the Division of Bond Finance has evaluated this PCB's implementing legislation, PCB TR 06-02, on the state's debt position. Division staff has projected that the implementing legislation's \$500 million maximum debt service would cause the state's benchmark debt ratio to exceed the 7-percent cap. The projection assumes that the transportation bond program would be fully leveraged in the three years following passage, and that the proposed bond financing of class-size reduction required by the State Constitution also would be fully leveraged.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The provisions of Article VII, Section 18, requiring a mandate analysis of proposed legislation do not apply to proposed amendments to the state Constitution.

2. Other:

Article XI, sections 1 and 5, Florida Constitution, provides that a constitutional amendment may be proposed by joint resolution of the Legislature. Final passage in the House and Senate requires a three-fifths vote in each house; passage in a committee requires a simple majority vote. If the joint resolution is passed in this session, Article XI, section 5, of the Florida Constitution provides that the proposed amendment would be placed before the electorate at the 2006 General Election or at an earlier special election authorized for that purpose.

Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, must be published in one newspaper of general circulation in the county in which a newspaper is published. If the proposed amendment or revision is approved by vote of the electors, it will be effective as an amendment to or revision of the state constitution on the first Tuesday after the first Monday in January following the election.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

PCB TR 06-01

Preliminary Draft

2006

House Joint Resolution

A joint resolution proposing the creation of Subsection 11(g) of Article VII of the State Constitution, relating to state bonds, to authorize general obligation bonds for state capital projects for transportation improvements.

Be It Resolved by the Legislature of the State of Florida:

That the following creation of Subsection 11(g) of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose, and shall take effect upon such approval:

ARTICLE VII

FINANCE AND TAXATION

SECTION 11. State bonds; revenue bonds.-

(g) Bonds pledging the full faith and credit of the state of Florida may be issued by the state in the manner provided by general law to finance right-of-way and other real property acquisition for highway, rail, public transportation, airport, and seaport projects, and for bridge repair and replacement projects. Bonds issued under this subsection shall be secured by a pledge of and shall be payable primarily from state tax revenues, as provided by general law. The total outstanding principal of state bonds issued pursuant to this subsection shall never exceed twenty-five percent of the total tax revenues of the state for the two preceding fiscal years.

PCB TR 06-01

Preliminary Draft

2006

30 BE IT FURTHER RESOLVED that the following statement be
31 placed on the ballot:

32
33 CONSTITUTIONAL AMENDMENT
34 ARTICLE VII, SECTION 11(g)

35
36 TRANSPORTATION FUNDING.--Proposing an amendment to the State
37 Constitution authorizing the Legislature to provide for the
38 issuance of general obligation bonds by the State of Florida, in
39 an amount not to exceed twenty-five percent of the state's total
40 tax revenues in the two preceding fiscal years. The proceeds of
41 these bonds, which pledge the full faith and credit of the state,
42 shall be used to finance right-of-way and other real property
43 acquisition for transportation improvements to highways, rail,
44 public transportation, airports and seaports, and to finance
45 bridge repair and replacement projects.

PCB TR 06-02
General Revenue Bonds
Program Implementation

HOUSE OF REPRESENTATIVES STAFF ANALYSIS - Revised

BILL #: PCB TR 06-02

General Revenue Bonds for Transportation/Program

Implementation

SPONSOR(S): Transportation Committee

TIED BILLS: PCB TR 06-01

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Transportation Committee		Pugh BTP	Miller P.M.
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The Florida Department of Transportation (FDOT) is responsible for managing a \$35 billion, Five-Year Work Program of highway, turnpike, aviation, seaport, and public transit projects, financed with state, federal and, in certain instances, advanced local funds. About 2 percent of the agency's funding is derived from general-obligation bonds, specifically for right-of-way acquisition and construction of bridges.

Although FDOT has a well-planned work program, and last year received additional funding over the next decade for transportation infrastructure crucial to implementing new growth management and concurrency requirements, a backlog of between \$38 billion and \$48 billion remains.

PCB TR 06-02 creates a bond-financing program for transportation right-of-way acquisition and bridge replacement and repair. The general obligation bonds financing the program pledge the full faith and credit of the state, and their debt service will be paid with state revenues transferred from the General Revenue Fund to the State Transportation Trust Fund. The bonds will be issued by the state Division of Bond Finance (DBF), pursuant to the State Bond Act.

The proposed committee bill does not specify the amount of bonds to be issued; rather, it limits the total debt service to be appropriated in any one year at \$500 million. The term of the bonds also is flexible, ranging up to 30 years. Based on that range and current interest rates, the amount of bonds that could be issued based on the \$500 million debt service cap is between \$3.7 billion and \$6.7 billion.

The bonds may be issued only upon passage of a constitutional amendment creating the program. Under Florida law, the issuance of general obligation bonds must first be approved by the voters. PCB TR 06-02 is the implementing legislation for the proposed joint resolution PCB TR 06-01 that seeks to amend the state constitution to add this new bond program.

PCB TR 06-02 takes effect upon becoming law. However, the section implementing the bond program becomes effective only if the electorate approves the constitutional amendment providing for the issuance of the general obligation bonds.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: If the proposed constitutional amendment and implementing legislation pass, FDOT potentially will have access to hundreds of millions of dollars to build more transportation infrastructure. In the immediate sense, this legislation facilitates a growth in government. Viewed from a larger context, the legislation promotes greater government spending on much-needed public infrastructure to energize economic development.

B. EFFECT OF PROPOSED CHANGES:

Background

Transportation funding in the state of Florida

For FY 05-06, FDOT's budget is \$8.1 billion, about \$7 billion of which is the first year of the Work Program's expenditures. Additionally, the Legislature adopted the agency's \$34.9 billion 2006-2010 Work Program.

The sources of FDOT's current Work Program funding are: 47 percent fuel tax revenues and other traditional transportation revenue sources; 24 percent federal funds; 20 percent toll revenues and bond proceeds; 8 percent documentary stamp tax revenues; and 1 percent General Revenue.

State transportation bonds

Although bond-financing programs are about 6 percent of FDOT's overall budget, they play important roles in the agency's ability to meet transportation needs. The agency has three programs financed with revenue bonds: the Florida Turnpike Enterprise, the State Infrastructure Bank program, and individual bonds supporting transportation and environmental improvements at several non-Turnpike toll facilities operated by FDOT. The agency also contributes \$25 million annually to pay debt service on \$324 million in bonds issued by the Florida Ports Financing Commission.

FDOT has only one general obligation bond program that comprises about 2 percent of its total budget. In 1988, Florida voters approved a constitutional amendment creating section 17, Article VII of the state constitution, authorizing the issuance of general obligation bonds to acquire right-of-way for roads and to construct bridges. The Legislature approved the use of these bonds for the advance acquisition of right-of-way land beginning in 1991 and bridge construction beginning in 1994. The Legislature also provided that the bonds' debt service was to be paid from state fuel tax revenues. About three-fourths of the funds from these bonds are being spent on right of way acquisition and one-fourth is being spent on bridge construction.

Current law provides that a maximum of 7 percent of state transportation tax collections, not to exceed \$275 million, may be used to pay the annual debt service on these general obligation bonds.

As of December 2005, a total of \$1.86 billion in right-of-way bonds have been issued. Examples of major projects whose right-of-way has been purchased using these bond funds include: \$66.3 million for phase I of the Miami Intermodal Center; a \$26.4 million bond fund grant to the Orlando-Orange County Expressway Authority to help purchase right-of-way for the Western Beltway Part A project; \$8.5 million in bond funds for the Brannon Field Chaffee project in Duval County; \$34.2 million in bond funds for the Seminole Expressway; and \$15.9 million for the Polk Parkway project.

During the 20-year period from fiscal years 1990-91 through 2009-10, FDOT estimates that it will have leveraged \$2.7 billion in right-of-way bond proceeds to finance approximately \$18.1 billion in land acquisition.

Since 1995, approximately \$800 million in Right of Way Acquisition and Bridge Construction Bonds has been committed to the replacement of bridges on the State Highway System, according to FDOT staff. With other funding sources considered, this \$800 million has been used to leverage \$1.6 billion in total project costs. Some of the major bridge projects financed with these bond funds are: the Fuller Warren Bridge; the Interstate-10 bridge over Blackwater Creek; and the Flagler Memorial Bridge.

Backlog of unmet transportation needs

Several studies in recent years by public and private institutions have concluded that Florida's transportation infrastructure is not keeping pace with its growth in population and number of visitors. These have concluded that Florida has unfunded state transportation needs ranging from \$38 billion to \$48 billion; this does not include projected transportation needs by cities and counties.

FDOT's recent selection of projects for the new growth-management funds made available in the 2005 session also illustrates how transportation needs are outstripping available funding. The 2005 session laid the groundwork for FDOT to receive nearly \$6 billion in general revenues to finance a variety of transportation infrastructure programs and is designed to help the state and local governments meet new concurrency requirements. Last year, 273 projects requests totaling \$4.6 billion for the growth management funds earmarked for the Strategic Intermodal System were submitted to FDOT's Central Office. FDOT selected 141 projects, totaling \$2.2 billion. Only 18 of the projects already had one or more phases in the current Work Program.

Exacerbating the backlog is the unprecedented growth in the costs associated with transportation construction, due in large part to increased international and regional demand. Recent reports by FDOT indicate that asphalt prices have increased nearly 22 percent per ton; concrete prices have increased nearly 33 percent per cubic yard; and steel prices have increased from 6 percent to nearly 19 percent per pound, depending on the type of steel. Right-of-way costs in Florida also are increasing, by as much as 10 percent annually in some areas, FDOT has reported.

Effect of Proposed Changes

PCB TR 06-02 creates a bond-financing program for transportation right-of-way and real property acquisition, and for bridge replacement and repair. The land acquisition shall be for highway, rail, public transportation, airport, and seaport uses.

The general obligation bonds financing the program pledge the full faith and credit of the state, and their debt service will be paid with state tax revenues transferred from the General Revenue Fund to the State Transportation Trust Fund. The bonds will be issued by DBF, pursuant to the State Bond Act.

The draft bill does not specify the amount of bonds to be issued; rather, it limits the total debt service to be appropriated in any one year at \$500 million. The term of the bonds also is flexible, ranging up to 30 years. Based on that range and current interest rates, the amount of bonds that could be issued based on the \$500 million debt service cap is between \$3.7 billion and \$6.7 billion.

The bonds may be issued only upon passage of a constitutional amendment creating the program. Under Florida law, the issuance of general obligation bonds must first be approved by the voters. PCB TR 06-02 is the implementing legislation for the proposed joint resolution, PCB TR 06-01, seeking to create the bond program in the constitution.

PCB TR 06-02 takes effect upon becoming law; however, the section implementing the bond program becomes effective only if the electorate approves the constitutional amendment providing for the issuance of the general obligation bonds.

C. SECTION DIRECTORY:

Section 1: Creates s. 215.606, F.S., which addresses a new general-obligation bond program to fund certain types of transportation infrastructure. Expresses legislative findings. Lists eligible project categories. Sets debt-service cap for bonds. Sets terms of bonds. Explains DBF's role.

Section 2: Specifies that the general obligation bonds to be utilized under this program may be issued only upon approval by statewide voters of a proposed constitutional amendment at the next general election.

Section 3: Specifies that this act takes effect upon becoming law; except that Section 1 takes effect only if the constitutional amendment referenced in Section 2 is approved by the voters.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None, unless the constitutional amendment creating the new general obligation bonds for this program is adopted by the state voters and the Legislature appropriates debt-service. See "II.D. FISCAL COMMENTS" below.

2. Expenditures:

None, unless the constitutional amendment creating the new general obligation bonds for this program is adopted by the state voters and the Legislature appropriates debt service. See "II.D. FISCAL COMMENTS" below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None, unless the constitutional amendment creating the new general obligation bonds for this program is adopted by the state voters and the Legislature appropriates debt service. Under those circumstances, transportation contractors and supporting industries would likely benefit from the opportunity of bidding for additional FDOT projects.

Indirectly, the state's economy, local governments, and citizens would benefit from the infusion of transportation funding and the resulting infrastructure. An FDOT economic study indicates that for every \$1 spent on transportation infrastructure results in a \$5.50 economic benefit.

D. FISCAL COMMENTS:

DBF and FDOT prepared a variety of bonding scenarios for committee staff using a range of debt service caps, terms of maturity for the bonds, and interest rates.¹ At the high end, a \$500 million annual limit on debt service on 30-year bonds at 6-percent interest would generate an estimated \$6.7 billion in bond proceeds. FDOT could commit those funds to build nearly \$8 billion worth of projects.

¹ Documents on file with the House Transportation Committee.

The debt service would be \$14.9 billion. In whatever scenario is selected, the source of the debt service would be recurring state general revenue. Pledging general revenue as debt service on transportation bonds will result in these pledged monies not being available to the Legislature to appropriate for other state programs or needs while the bonds are outstanding.

Also, FDOT staff has said that a trust fund should be created for the new bonding program. If the constitutional amendment creating the program is approved by voters in November 2006, no bonds will be sold until the Legislature appropriates the debt service, which at the earliest will be May 2007, during the regular session. At that time, a trust fund could be created, if necessary.

Additionally, DBF staff has evaluated this PCB's impact on the state's debt position by calculating the impact on the state's benchmark debt ratio, and have projected that the \$500 million maximum debt service would cause the state's benchmark debt ratio to exceed the 7-percent cap. This projection assumes that this proposed bonding program would be fully leveraged in the three years following passage, and also assumes the proposed bond financing of the class-size reduction required by the State Constitution would be fully leveraged.

II. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

PCB TR 06-02 does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the percentage of a state tax shared with counties or municipalities; or reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

FDOT and DBF have sufficient existing rulemaking authority to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to transportation financing; creating s.
3 215.606, F.S.; describing legislation intent; creating a
4 program to issue general-obligation bonds for certain
5 transportation infrastructure projects; establishing a
6 debt service cap on the bond program; describing the
7 responsibilities of the Department of Transportation and
8 the State Division of Bond Finance; specifying that
9 implementation of this act becomes effective upon passage
10 of constitutional amendment.
11

12 Be It Enacted by the Legislature of the State of Florida:
13

14 Section 1. Section 215.606, Florida Statutes, is created to
15 read:

16 **215.606 State bonds for financing transportation**
17 **infrastructure. --**

18 (1) LEGISLATIVE FINDINGS. -- Florida's transportation
19 infrastructure is not keeping pace with the state's growth in
20 population and visitors, nor with increased material and labor
21 costs. More than 65 percent of the state's major highways are
22 considered congested, and motorists are spending more hours
23 driving and are driving more miles per day than the state's
24 capacity to add new lane miles. The Legislature also finds that
25 recent increases in transportation funding will not significantly
26 reduce the \$38 billion to \$48 billion backlog in unfunded state
27 transportation needs. Exacerbating the problem are double-digit
28 increases in the materials used in transportation construction
29 and increased competition, nationwide, for transportation

30 builders. Finally, the Legislature finds that a safe and
31 efficient transportation system is one of Florida's key economic
32 engines. Therefore, the Legislature concludes that an
33 additional, flexible funding source for certain transportation
34 activities and projects is necessary to continue the state's
35 commitment to preserve, maintain, and expand its transportation
36 system in order to keep residents and visitors mobile,
37 effectively move freight and consumer goods, and enhance
38 Florida's economy.

39 (2) The issuance of state bonds to finance or refinance the
40 costs of acquiring real property or the rights to real property
41 for state transportation infrastructure, or to finance or
42 refinance the construction of state transportation
43 infrastructure, and purposes incidental to such property
44 acquisition or construction projects, is hereby authorized
45 pursuant to s. 11(g), Art. VII of the State Constitution and ss.
46 215.57-215.83.

47 (b) Right-of-way acquisition or transportation
48 infrastructure financed by state bonds issued under this section
49 shall first be authorized by the Legislature by an act relating
50 to appropriations or by general law, and shall be issued pursuant
51 to the State Bond Act.

52 (c) Bonds issued pursuant to this section shall be secured
53 by the full faith and credit of the state. An amount sufficient
54 to pay debt service on the bonds shall be transferred from the
55 General Revenue Fund to the State Transportation Trust Fund.

56 (d) The Department of Transportation shall request the
57 Division of Bond Finance to issue the state bonds authorized by
58 this section pursuant to the State Bond Act. The Department of

PCB TR 06-02a

Version to be considered at 3/7/06 Committee Meeting

2006

Transportation shall certify that the projects to be financed will comply with the requirements of s. 339.135(4)(b) and (c) and (5).

(e) The total amount of bonds to be issued under this section shall be limited by the debt service requirements of the bonds issued and outstanding. The debt service requirements of the bonds issued and outstanding under this section shall not exceed \$500 million in any fiscal year.

(f) The term of the bonds shall not exceed 30 years. The Division of Bond Finance, in consultation with the Department of Transportation, shall determine the term of each bond series, and the timing of each issuance, based on factors to include interest rates, market conditions, and sufficiency of debt service.

(3) Bond proceeds available pursuant to this section shall be transferred to the State Transportation Trust Fund and may be used to finance the following Department of Transportation infrastructure activities or projects:

(a) Acquisition of right-of-way and other real property for highway, rail, public transportation, airport, and seaport projects or

(b) Bridge Repair and Replacement Program projects.

Section 2. The bonds may be issued only upon approval by a vote of the electors of Florida at the next general election of a proposed constitutional amendment adopted by the Legislature as HJR ____ or similar legislation.

Section 3. This act shall take effect immediately upon becoming law; however, Section 1 of this act shall be effective only upon approval by the electors of Florida of the issuance of state bonds pledging the full faith and credit of the state. If

PCB TR 06-02a

Version to be considered at 3/7/06 Committee Meeting

2006

88 | the issuance of said bonds is rejected, Section 1 of this act
89 | shall be null and void.
90 |

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB TR 06-05 Residential Manufactured Building Regulation
SPONSOR(S): Transportation Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Transportation Committee		Thompson J.T.	Miller P.M.
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

PCB TR 06-05 relates to the regulation of residential manufactured buildings. The powers relating to this regulation are transferred by the bill from the Department of Community Affairs (DCA) to the Department of Highway Safety Motor Vehicles (DHSMV) by a type two transfer, as defined in s. 20.06 (2), F.S.

The 2005 Legislature created the Manufactured Housing Regulatory Study Commission (Commission). The purpose of the Commission was to review the programs regulating manufactured and mobile homes which are currently located within the DHSMV and to review the sources of funding of these programs to determine if the programs are or can be self-sustaining. PCB TR 06-05 implements the legislative changes recommended by the Commission. The authority of the Commission to operate terminates on February 15, 2006.

The DCA and the DHSMV are authorized to enter into interagency agreements with each other regarding the regulation of residential manufactured buildings

The related rules of the DCA and the Florida Building Commission that were in effect on June 30, 2006, must become rules of the DHSMV and must remain in effect until specifically amended or repealed in the manner provided by law.

Any judicial or administrative action involving regulation of residential manufactured buildings by the DCA will not be affected by this act. Should any such action occur the DHSMV must be substituted as a party in interest.

There is an indeterminate fiscal impact to the state for transferring the regulation of residential manufactured buildings from DCA to DHSMV. However, the PCB gives DHSMV the authority to establish fees by rule to pay for the cost of administering the program.

This act will take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government:

- PCB TR 05 increases the responsibilities, obligations, and work for the DHSMV by transferring all statutory powers, duties, and functions relating to the regulation of residential manufactured buildings, including, but not limited to, certification of manufacturers and recertification of residential manufactured housing.
- PCB TR 05 gives all statutory authority and responsibility for the enforcement of laws relating to the regulation of residential manufactured buildings to the DHSMV, including, but not limited to, enforcement of requirements under the Florida Building Code through plan review and inspection.
- PCB TR 05 decreases the responsibilities, obligations, and work for the DCA by transferring all power relating to the regulation of residential manufactured buildings to DHSMV as a type two transfer, as defined in s. 20.06 (2), F.S.
- PCB TR 05 Authorizes subcontracting or outsourcing of services or activities to DHSMV. DHSMV may use third party inspectors or its own personnel to inspect residential manufactured building units or systems or the component parts, together with the plans, specifications, and quality control procedures to ensure the units, systems, or component parts comply with the Florida Building Code and to label units complying with those standards. DHSMV inspectors would have to be licensed as under Chapter 468, F.S., which relates to regulation of building code administrators and inspectors.

B. EFFECT OF PROPOSED CHANGES:

PCB TR 05 will transfer all powers and responsibilities relating to residential manufactured buildings from the Department of Community Affairs (DCA) to the Department of Highway Safety Motor Vehicles (DHSMV) by a type two transfer, as defined in s. 20.06 (2), F.S.

Background –

The 2005 Legislature created the Manufactured Housing Regulatory Study Commission (Commission) by enacting s. 21 of ch. 2005-164, Laws of Florida. (See also s. 47 of ch. 2005-147, Laws of Florida.) The purpose of the Commission was to review the programs regulating manufactured and mobile homes which are currently located within the DHSMV and to review the sources of funding of these programs to determine if the programs are or can be self-sustaining. PCB TR 06-05 implements the legislative changes recommended by the Commission. The authority of the Commission to operate terminates on February 15, 2006.

According to the Manufactured Housing Regulatory Study Commission, approximately 1.4 million people live in 900,000 manufactured or mobile homes in Florida and many other people live in modular homes in Florida. Thousands of businesses including manufacturers, retailers, community owners, developers, installers, transporters, suppliers, finance companies, insurance companies and various other service firms are involved in these industries.

Specifically, there are 8 manufacturing companies with 15 locations throughout Florida involved in the building of approximately 18,000 new manufactured homes annually. There are 1,312 licensed retailers, 516 licensed installers and approximately 4,500 manufactured home communities/mobile home parks in Florida. Around 35,000 people are employed by the industry. The manufactured housing

industry is responsible for generating in excess of \$250 million per year in tax revenues to the State of Florida.

For purposes of this analysis, mobile home, manufactured home, manufactured building and modular home mean the following:

- *Mobile Home* - a structure, transportable in one or more sections, which is 8 body feet or more in width and which is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities. See s. 320.01(2)(a), F.S.
- *Manufactured Home* - a mobile home fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site, with each section bearing a seal certifying the section is built in compliance with the National Manufactured Home Construction and Safety Standards Act. See s. 320.01(2)(b), F.S.
- *Manufactured Building* - a closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured in manufacturing facilities for installation or erection as a finished building or as part of a finished building, which shall include, but not be limited to, residential (modular home), commercial, institutional, storage, and industrial structures. However, the term does not include mobile homes. See s. 553.36(12), F.S.
- *Modular Home* - a manufactured building constructed as a residential dwelling unit.

Current Situation – Federal and State Law:

Construction and Inspection programs of manufactured homes and modular homes

In 1974, the United States Congress established federal construction and safety standards for manufactured homes in order to:

- Reduce the number of personal injuries and deaths;
- Reduce the amount of insurance costs and property damage resulting from manufactured home accidents; and
- To improve the quality and durability of manufactured homes. See 42 U.S.C. 5401, et seq.

The National Manufactured Home Construction and Safety Standards Act of 1974 (Act) directed the Secretary of the United States Department of Housing and Urban Development (HUD) to establish appropriate manufactured home construction and safety standards. These standards (HUD Code) are found in 24 C.F.R. 3280 and apply to all manufactured homes constructed for sale to purchasers in the United States on or after June 15, 1976 (the effective date of the standards). The State of Florida has statutorily adopted the HUD Code by enacting s. 320.823, F.S.

What the HUD Code does:

- The HUD Code is performance based and specifically designed for compatibility with the factory production process and establishes standards for structural design, construction, fire safety, energy efficiency and transportation from the factory to the customer's home site.
- The HUD Code includes performance standards for heating, plumbing, air conditioning and thermal and electrical systems. Every manufactured home is built in a factory, under controlled conditions, and has a label affixed on the exterior of each section of the home indicating the home has been designed, constructed, tested and inspected to comply with the HUD Code.
- Ensures that no manufactured home may be transported from the factory unless it complies with the HUD Code and each section receives a certification label from an independent third party inspector. The HUD Secretary implements investigations and inspection responsibilities through the use of private and state inspection agencies.

- The HUD Code requires oversight of the manufacturers' engineering design of their homes and their quality assurance manuals for their plants by the Design Approval Primary Inspection Agency (DAPIA) which is a third party inspection agency. In addition, the DAPIA also coordinates with the third party inspection agency known as the Production Inspection Primary Inspection Agency (IPIA). The IPIA:
 - Has the responsibility to make sure the production facility programs and procedures are in accordance with the DAPIA approved quality assurance manual.
 - Conducts inspections of the homes produced in the factory to assure conformance with the approved design. Every home is inspected during at least one stage of production.
 - Makes a complete inspection of every phase of production and every visible part of each home in production.

The policy of HUD is to involve state agencies in the enforcement of the HUD Code to the maximum extent possible consistent with the capabilities of such agencies and the public interest.

Responsibilities of the Department of Highway Safety Motor Vehicles:

While an IPIA may be a private entity, DHSMV serves as HUD's contract IPIA in Florida.

The aforementioned IPIA functions are carried out by DHSMV's Bureau of Mobile Home and Recreational Vehicle Construction (Bureau). If a state chooses not to participate as an IPIA, manufacturers of manufactured homes may contract with HUD approved private IPIA entities.

As the exclusive IPIA in Florida, the Bureau is responsible for the in-plant inspection of all homes manufactured in Florida. The Bureau employs 16 compliance examiners/inspectors assigned to 15 Florida manufacturing plants. These 16 full-time employees perform the following duties:

- All lines of production in the plant are inspected on an ongoing basis to ensure the manufacturer's compliance with design specifications approved in accordance with the HUD Code.
- Inspectors visually observe the manufacturing process in each phase of construction to ensure conformance to the HUD Code. See s. 320.8255, F.S.
- The inspectors also evaluate the plant's quality control system on an ongoing basis to ensure the effectiveness of the system.
- Inspectors ensure all nonconformances are corrected while the home is still in the factory. Deviations from HUD Code are documented and action is taken to correct the deviations and prevent their reoccurrence.

All deviations from the HUD Code are documented and analyzed at Bureau headquarters to determine if further action is required to ensure the plant has rectified the causes of the deviations. HUD provides specific guidelines for IPIA's in this process and performs an annual audit of the IPIAs' effectiveness.

When each home section has been completed and passes final inspection, a HUD label is affixed to the home section attesting the home meets the HUD Code. (A HUD label is required on each section of a multi-sectional home.) No homes are allowed to leave the factory without a HUD label. See s. 320.827, F.S. The Bureau maintains an inventory of HUD labels and receives \$32.00 (currently) for each label sold. The manufacturer purchases the labels from the bureau and, in addition, remits \$39.00 directly to HUD for each label purchased. The revenue from the sale of HUD labels is intended to cover the expenses of operating the IPIA program. Section 320.8255(4), F.S., authorizes DHSMV to establish and set fees for HUD labels sufficient to cover the cost of administration of the IPIA program.

Florida's construction and inspection programs of modular homes:

Since 1971, Florida has regulated the construction of manufactured buildings to ensure such structures are built to meet minimum safety standards. Current regulations of manufactured buildings are known as the Florida Manufactured Building Act of 1979. See Part I of ch. 553, F.S.

The Florida Building Commission has been created by the Legislature and is, for administrative purposes, housed within DCA. See s. 553.74, F.S. As part of its responsibilities, the Florida Building Code Commission has adopted the Florida Building Code which does the following:

- Applies to the construction and modification of manufactured buildings. See s. 553.37, F.S.
- Establishes minimum standards for the design, construction, erection, alteration, modification, repair and demolition of buildings including modular homes.
- Ensures that no manufactured building (except certain exceptions set forth in s. 553.37(2), F.S.) may be installed in Florida unless the manufactured building is approved and bears an insignia approved by DCA. All manufactured buildings issued and bearing the DCA insignia are deemed to comply with the Florida Building Code and are exempt from local amendments enacted by any local government. See s. 553.37(2) through (6), F.S.

Within the state are two agencies which carry out the rules and responsibilities relating to the regulation of residential manufactured buildings. Those agencies are the Department of Highway Safety Motor Vehicles (DHSMV) and the Department of Community Affairs (DCA).

Responsibilities of the Department of Community Affairs:

The DCA works with the DHSMV to carry out the rules and regulations of residential manufactured buildings. Some of DCA's responsibilities include:

- Responsible for enforcement of the Florida Building Code requirements related to manufactured Buildings
- Authorized to delegate its enforcement responsibilities to a state department having building construction responsibilities or a local government. See s. 553.37(8), F.S.
- The DCA may also delegate its plan review and inspection authority to a state department having:
 - building construction responsibilities,
 - a local government,
 - an approved inspection agency,
 - an approved plan review agency, or
 - an agency of another state. See s. 553.37(8), F.S.

The DCA also:

- Ensures manufactured buildings meet the requirements of the Florida Building Code;
- Utilizes entities authorized by an appropriate licensing board to perform plan reviews and inspections for compliance with the Florida Building Code, certified by the DCA to perform that role, and selected by a manufacturer.

Third party entities are typically engineers or architects qualified and authorized to review plans and inspect buildings for compliance with the Florida Building Code pursuant to Chapters 471 and 481, Florida Statutes. These professionals have been required to take four hours of continuing education regarding the Florida Building Code and have a continuing obligation to take additional courses on the Code as determined by their respective licensing boards. Third party entities pay an initial application fee of \$600.00 and an additional \$900.00 upon certification and triennial renewal thereof.

Additionally, the DCA requires that the operation of manufacturing facilities is subject to a quality assurance program, and the activities of manufacturers and third-party entities is subject to audit by the Department's contractor.

The DCA has delegated the responsibility for inspection of modular homes to third-party agencies that have been certified by the DCA for that purpose. These agencies are also charged with reviewing the construction plans for the home as well as the manufacturers quality assurance manual. For third-party requirements see s. 428.2.1, Florida Building Code, Building Volume (2004).

Post-Manufacture Installation Inspection:

Installation programs, including regulation and inspection functions of the foundation system for manufactured/mobile homes and modular homes are not directly impacted by the bill. Each county or municipality in Florida is responsible for the onsite inspection of each manufactured/mobile home installation located within the jurisdiction of such entity prior to issuance of the certificate of occupancy. See s. 320.8285, F.S. Inspections for site-related activities are performed by building code enforcement personnel employed by the authority having jurisdiction and licensed by the Florida Building Code Administrators and Inspectors Board as required by Part XII of ch. 468, F.S. Once a modular home leaves the factory certified by the DCA, jurisdiction for enforcement is vested in other governmental agencies. Installation, repair and modification of a manufactured building is a construction activity required to be performed by individuals licensed by the Construction Industry Licensing Board as required in ch. 489, F.S. Plan review and inspection for site-related work is performed by building code enforcement personnel employed by the authority having jurisdiction and licensed by the Florida Building Code Administrators and Inspectors Board pursuant to Part XII of ch. 468, F.S. (The same inspectors who inspect site related activities for manufactured/mobile homes).

Proposed Changes -

PCB TR 06-05 initiates a type two transfer, as defined in s. 20.06(2), Florida Statutes, transferring regulatory authority and rules relating to residential manufactured buildings from DCA to DHSMV. This will provide continuity of regulation during the transition from one agency to the other. Because regulation of residential manufactured buildings is not a distinct unit within DCA, personnel and funds are not included in the transfer. The bill also substitutes DHSMV as a party in interest for any ongoing judicial administrative actions involving the regulation of residential manufactured buildings by DCA pending July 1, 2006.

Sections 320.870 through 320.878, F.S., the "Florida Residential Manufactured Building Act", is created by the bill. Current provisions under which residential manufactured buildings are regulated by DCA are revised and replicated in Chapter 320, F.S., which will authorize DHSMV to regulate residential manufactured buildings that are to be used as single-family dwelling units. DHSMV may use third party inspectors or its own personnel to inspect residential manufactured building units or systems or the component parts, together with the plans, specifications, and quality control procedures to ensure the units, systems, or component parts comply with the Florida Building Code and to label units complying with those standards. DHSMV inspectors would have to be licensed as under Chapter 468, F.S., which relates to regulation of building code administrators and inspectors.

PCB TR 06-05 amends ss. 553.36 and 553.38, F.S. to exclude single-family residential manufactured buildings from the definition of manufactured buildings under from Part I of Chapter 553, F.S., which is DCA's regulatory authority for manufactured buildings. These provisions clarify that except for applying Florida Building Code minimum construction standards to residential manufactured buildings, Chapter 553, F.S., does not apply to manufactured homes and residential manufactured buildings as regulated by DHSMV.

Finally, the bill directs the Division of Statutory Revision upon request, to assist in preparing draft legislation for 2007 Session to conform Florida Statutes to the changes the bill makes. This will assist with any follow-up "glitch" legislation needed.

C. SECTION DIRECTORY:

Section 1 initiates a type two transfer, as defined in s. 20.06(2), Florida Statutes, transferring regulatory authority relating to residential manufactured buildings from the DCA to the DHSMV;

Section 2 initiates a type two transfer, as defined in s. 20.06(2), Florida Statutes, transferring regulatory rules relating to residential manufactured buildings from DCA and the Florida Building Code Commission to the DHSMV;

Section 3 substitutes DHSMV as a party in interest for any ongoing judicial administrative actions involving the regulation of residential manufactured buildings by DCA pending July 1, 2006;

Section 4 creates s. 320.870, F.S., the "Florida Residential Manufactured Building Act";

Section 5 creates s. 320.871, F.S., defining terms used in ss. 320.870-320.878, F.S.;

Section 6 creates s. 320.872, F.S., to adopt minimum construction requirements of the Florida Building Code and the Florida Fire Prevention and Lifesafety Codes;

Section 7 creates s. 320.873, F.S., to establish the duties and responsibilities of DHSMV; and provide rulemaking authority;

Section 8 creates s. 320.874, F.S., to require a manufacturer certification for all residential manufactured buildings in the state;

Section 9 creates s. 320.875, F.S., to establish a recertification process for relocated or modified residential manufactured homes;

Section 10 creates s. 320.876, F.S., which states the department must enforce every provision of ss. 320.870 – 320.878 and rules adopted under ss. 320.870 – 320.878 and the provisions of Florida Building Code governing residential manufactured buildings;

Section 11 creates s. 320.877, F.S., to authorize the department to seek injunctive or other relief;

Section 12 creates s. 320.878, F.S., to establish the penalties for violating any of the provisions of ss. 320.870 – 320.878;

Section 13 transfers and renumbers section 320.865, F.S. related to maintenance of records by DHSMV.

Section 14 amends s. 553.36, F.S., to exclude single-family residential manufactured buildings from the definition of manufactured buildings. S. 553.36 is DCA's regulatory authority for manufactured buildings.

Section 15 amends s. 553.38, F.S., to clarify the application of the Florida Building Code to single-family residential manufactured buildings;

Section 16 directs the Division of Statutory Revision upon request, to assist in preparing draft legislation for 2007 Session to conform Florida Statutes to the changes the bill makes.

Section 17 provides that the act will take effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See D. Fiscal Comments, below

2. Expenditures:

See D. Fiscal Comments, below

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

PCB TR 06-05 authorizes the DHSMV to establish a schedule of fees to pay the cost incurred for the work relating to the administration and enforcement of ss. 320.870-320.878, F.S.

D. FISCAL COMMENTS:

The DCA has no "modular homes programs" which may be easily identified for accounting purposes. The manufactured buildings program, into which modular homes are integrated, is financially self-sustaining and DCA has reported the modular homes' program is self-sustaining.

PCB TR 06-05 authorizes the DHSMV to establish, by rule, a schedule of fees to pay the cost incurred for administration and enforcement of residential manufactured building regulation required by ss. 320.870-320.878, F.S. See s. 320.873 (7), F.S., created by the bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

PCB TR 06-05 does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the percentage of a state tax shared with counties or municipalities; or reduce the authority that municipalities have to raise revenues.

2. Other:

None

B. RULE-MAKING AUTHORITY:

DHSMV, DCA, and the Florida Building Code Commission appear to have sufficient existing rulemaking authority to implement the various provisions in PCB TR 06-05, should they become law.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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1 A bill to be entitled
2 An act relating to regulation of residential manufactured
3 buildings; providing for transfer of regulatory authority
4 from the Department of Community Affairs to the Department
5 of Highway Safety and Motor Vehicles; providing for
6 transfer of rules from the Department of Community Affairs
7 and the Florida Building Commission to the Department of
8 Highway Safety and Motor Vehicles; providing for the
9 validity of judicial and administrative actions; creating
10 s. 320.870, F.S.; providing a short title; creating s.
11 320.871, F.S.; providing definitions; creating s. 320.872,
12 F.S.; establishing the Florida Building Code and the
13 Florida Fire Prevention and Lifesafety Codes as the
14 minimum **uniform** construction requirements governing the
15 manufacture, design, construction, erection, alteration,
16 modification, repair, and demolition of residential
17 manufactured buildings; creating s. 320.873, F.S.;
18 providing duties and responsibilities of the Department of
19 Highway Safety and Motor Vehicles; providing for rules,
20 inspections, and insignia; creating s. 320.874, F.S.;
21 providing for manufacturer certification; creating s.
22 320.875, F.S.; providing for recertification of
23 residential manufactured buildings prior to the
24 relocation, modification, or change of occupancy; creating
25 s. 320.876, F.S.; providing for application and scope of
26 enforcement by the department; creating s. 320.877, F.S.;
27 providing for injunctive relief to compel compliance;
28 creating s. 320.878 providing penalties; transferring and
29 renumbering s. 320.865, F.S., relating to maintenance of

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30 records; amending ss. 553.36 and 553.38, F.S., relating to
31 regulation of manufactured buildings; conforming
32 provisions to changes made by the act; providing an
33 effective date.

34
35 Be It Enacted by the Legislature of the State of Florida:

36
37 Section 1. Department of Highway Safety and Motor Vehicles;
38 transfers; operations.--

39 (1) All statutory powers, duties, and functions relating to
40 the regulation of residential manufactured buildings, including,
41 but not limited to, certification of manufacturers and
42 recertification of residential manufactured buildings, of the
43 Department of Community Affairs are transferred by a type two
44 transfer, as defined in s. 20.06(2), Florida Statutes, to the
45 Department of Highway Safety and Motor Vehicles.

46 (2) All existing statutory authority and responsibility of
47 the Department of Community Affairs for the enforcement of laws
48 relating to the regulation of residential manufactured buildings,
49 including, but not limited to, enforcement of requirements under
50 the Florida Building Code through plan review and inspection, are
51 transferred by a type two transfer, as defined in s. 20.06(2),
52 Florida Statutes, to the Department of Highway Safety and Motor
53 Vehicles.

54 (3) All existing legal authorities and actions of the
55 Department of Community Affairs relating to the regulation of
56 residential manufactured buildings, including, but not limited
57 to, all pending and completed action on orders and rules, all
58 enforcement matters, and all delegations, interagency agreements,

59 and contracts with federal, state, regional, and local
60 governments and private entities are transferred by a type two
61 transfer, as defined in s. 20.06(2), Florida Statutes, to the
62 Department of Highway Safety and Motor Vehicles.

63 (4) The Department of Community Affairs and Department of
64 Highway Safety and Motor Vehicles are authorized to enter into
65 interagency agreements with each other concerning any matter
66 affected by this section in order to promote the efficient and
67 effective implementation of this section.

68 Section 2. Transfer of rules.--

69 (1) Rules of the Department of Community
70 Affairs.--Effective July 1, 2006, the rules of the Department of
71 Community Affairs that relate to regulation of residential
72 manufactured buildings, including, but not limited to,
73 enforcement of requirements under the Florida Building Code,
74 certification of manufacturers, and recertification of
75 residential manufactured buildings, that were in effect on June
76 30, 2006, shall become rules of the Department of Highway Safety
77 and Motor Vehicles and shall remain in effect until specifically
78 amended or repealed in the manner provided by law.

79 (2) Rules of the Florida Building Commission.--Effective
80 July 1, 2006, the rules of the Florida Building Commission that
81 relate to regulation of residential manufactured buildings,
82 including, but not limited to, rules relating to standards for
83 construction and inspection of residential manufactured
84 buildings, insurance coverage requirements, and fees, that were
85 in effect on June 30, 2006, shall become rules of the Department
86 of Highway Safety and Motor Vehicles and shall remain in effect

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87 until specifically amended or repealed in the manner provided by
88 law.

89 Section 3. Validity; judicial or administrative
90 action.--This act shall not affect the validity of any judicial
91 or administrative action involving regulation of residential
92 manufactured buildings by the Department of Community Affairs
93 pending on July 1, 2006, and the Department of Highway Safety and
94 Motor Vehicles shall be substituted as a party in interest in any
95 such action.

96 Section 4. Section 320.870, Florida Statutes, is created to
97 read:

98 320.870 Short title.--Sections 320.870-320.878 shall be
99 known and may be cited as the "Florida Residential Manufactured
100 Building Act."

101 Section 5. Section 320.871, Florida Statutes, is created to
102 read:

103 320.871 Definitions.-- As used in this ss. 320.870-320.878,
104 the term:

105 (1) "Approved" means conforming to the requirements of the
106 Florida Building Code.

107 (2)(a) "Approved inspection agency" means an organization
108 determined by the department to be especially qualified by reason
109 of facilities, personnel, experience, and demonstrated
110 reliability to investigate, test, and evaluate manufactured
111 building units or systems or the component parts thereof,
112 together with the plans, specifications, and quality control
113 procedures to ensure that such units, systems, or component parts
114 are in full compliance with the Florida Building Code and to
115 label such units complying with those standards.

116 (b) "Approved inspector" means an employee of the
117 department determined by the department to be especially
118 qualified by reason of training, experience, and demonstrated
119 reliability to investigate, test, and evaluate residential
120 manufactured building units or systems or the component parts
121 thereof, together with the plans, specifications, and quality
122 control procedures to ensure that such units, systems, or
123 component parts are in full compliance with the Florida Building
124 Code and to label such units complying with those standards. A
125 department employee performing inspections pursuant to ss.
126 320.870-320.878 must meet the licensure requirements under part
127 XII of chapter 468.

128 (3) "Closed construction" means that condition when any
129 building, component, assembly, subassembly, or system is
130 manufactured in such a manner that all portions cannot be readily
131 inspected at the installation site without disassembly or
132 destruction thereof.

133 (4) "Open construction" means any building, building
134 component, assembly, or system manufactured in such a manner that
135 all portions can be readily inspected at the building site
136 without disassembly thereof, damage thereto, or destruction
137 thereof.

138 (5) "Component" means any assembly, subassembly, or
139 combination of parts for use as a part of a building, which may
140 include structural, electrical, mechanical, and fire protection
141 systems and other systems affecting health and safety. Components
142 that incorporate elements of a building subject to the product
143 approval system adopted under s. 553.842 are subject to approval
144 in accordance with the product approval system upon

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implementation thereof and are not subject to the rules adopted under ss. 320.870-320.878. Components to which the rules adopted under ss. 320.870-320.878 apply are limited to three-dimensional systems for use as part of a building.

(6) "Department" means the Department of Highway Safety and Motor Vehicles.

(7) "Insignia" means an approved device or seal issued by the department to indicate compliance with the standards and rules established pursuant to ss. 320.870-320.878.

(8) "Install" means the assembly of a manufactured building component or system on site and the process of affixing a manufactured building component or system to land, a foundation, or an existing building, and service connections which are a part thereof.

(9) "Local government" means any municipality, county, district, or combination thereof comprising a governmental unit.

(10) "Manufacture" means the process of making, fabricating, constructing, forming, or assembling a product from raw, unfinished, semifinished, or finished materials.

(11) "Residential manufactured building" means a closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured in manufacturing facilities for installation or erection as a finished single-family residential dwelling unit. Sections 320.870-320.878 do not apply to **manufactured homes or mobile homes as defined in s. 320.01, F.S.**, factory-built school shelters, or residential health facilities regulated under chapter 553.

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(12) "Mobile home" means any residential unit constructed to standards promulgated by the United States Department of Housing and Urban Development.

(13) "Module" means a separately transported three-dimensional component of a residential manufactured building which contains all or a portion of structural systems, electrical systems, plumbing systems, mechanical systems, fire systems, and thermal systems.

(14) "Site" is the location on which a residential manufactured building is installed or is to be installed.

(15) "System" means structural, plumbing, mechanical, heating, electrical, or ventilating elements, materials, or components combined for use in a building.

Section 6. Section 320.872, Florida Statutes, is created to read:

320.872 Minimum construction requirements established.--The Florida Building Code and the Florida Fire Prevention and Lifesafety Codes shall be the minimum construction requirements governing the manufacture, design, construction, erection, alteration, modification, repair, and demolition of residential manufactured buildings. **These minimum requirements shall be uniform throughout the state and no entity, other than the department, has authority to modify the requirements.**

Section 7. Section 320.873, Florida Statutes, is created to read:

320.873 Duties and responsibilities of the department; rules; inspections; and insignia.--

(1) The department has the authority and responsibility to assure compliance with the provisions of ss. 320.870-320.878 and

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203 requirements of the Florida Building Code adopted under part I of
204 chapter 553 for the construction or modification of residential
205 manufactured buildings and building modules. The department is
206 authorized to adopt rules necessary to carry out the provisions
207 of ss. 320.870-320.878 and shall adopt by rule requirements to
208 address:

209 (a) Submission to and approval by the department of
210 manufacturers' drawings and specifications, including any
211 amendments.

212 (b) Submission to and approval by the department of
213 manufacturers' internal quality control procedures and manuals,
214 including any amendments.

215 (c) Procedures and qualifications for approval of third-
216 party plan review and inspection entities and of those who
217 perform inspections and plan reviews.

218 (d) Investigation of consumer complaints of noncompliance
219 of residential manufactured buildings with the Florida Building
220 Code and the Florida Fire Prevention Code.

221 (e) Issuance, cancellation, and revocation of any insignia
222 issued by the department and procedures for auditing and
223 accounting for disposition of them.

224 (f) Monitoring the manufacturers', inspection entities',
225 and plan review entities' compliance with ss. 320.870-320.878 and
226 the Florida Building Code. Monitoring may include, but is not
227 limited to, performing audits of plans, inspections of
228 manufacturing facilities and observation of the manufacturing and
229 inspection process, and onsite inspections of buildings.

230 (2) No residential manufactured building, except as
231 provided in subsection (11), may be installed in this state

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232 unless it is approved and bears the insignia of approval of the
233 department. Approvals issued by the department under the
234 provisions of this section shall be deemed to comply with the
235 requirements of ss. 320.870-320.878.

236 (3) All residential manufactured buildings issued and
237 bearing insignia of approval pursuant to subsection (2) shall be
238 deemed to comply with the Florida Building Code and are exempt
239 from local amendments enacted by any local government.

240 (4) No residential manufactured building bearing department
241 insignia of approval pursuant to subsection (2) shall be in any
242 way modified prior to installation, except in conformance with
243 the Florida Building Code.

244 (5) Residential manufactured buildings which have been
245 issued and bear the insignia of approval pursuant to ss. 320.870-
246 320.878 upon manufacture or first sale shall not require an
247 additional approval or insignia by a local government in which
248 they are subsequently sold or installed. Buildings or structures
249 that meet the definition of "open construction" are subject to
250 permitting by the local jurisdiction and are not required to bear
251 insignia.

252 (6) If the department determines that the standards for
253 construction and inspection of residential manufactured buildings
254 prescribed by statute or rule of another state are at least equal
255 to the Florida Building Code and that such standards are actually
256 enforced by such other state, it may provide by rule that the
257 residential manufactured building which has been inspected and
258 approved by such other state shall be deemed to have been
259 approved by the department and shall authorize the affixing of
260 the appropriate insignia of approval.

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261 (7) The department shall, by rule, establish a schedule of
262 fees to pay the cost incurred by the department for the work
263 related to administration and enforcement of ss. 320.870-320.878.

264 (8) The department may delegate its enforcement authority
265 to a state department having building construction
266 responsibilities or a local government. The department may
267 delegate its plan review and inspection authority to a state
268 department having building construction responsibilities, a local
269 government, an approved inspection agency, an approved plan
270 review agency, or an agency of another state.

271 (9) If the department delegates its inspection authority to
272 third-party approved inspection agencies, manufacturers must have
273 one, and only one, inspection agency responsible for inspection
274 of a residential manufactured building, module, or component at
275 all times.

276 (10) If the department delegates its inspection authority
277 to third-party approved plan review agencies, manufacturers must
278 have one, and only one, plan review agency responsible for review
279 of plans of a residential manufactured building, module, or
280 component at all times.

281 (11) Custom or one-of-a-kind prototype residential
282 manufactured buildings shall not be required to have state
283 approval but must comply with all local requirements of the
284 governmental agency having jurisdiction at the installation site.

285 Section 8. Section 320.874, Florida Statutes, is created to
286 read:

287 320.874 Manufacturer certification.--

288 (1) Before manufacturing residential buildings to be
289 located within this state or selling residential manufactured

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290 buildings within this state, whichever occurs later, a
291 manufacturer must be certified by the department. The department
292 shall certify a manufacturer upon receipt from the manufacturer
293 and approval and verification by the department of the following:

294 (a) The manufacturer's internal quality control procedures
295 and manuals, including any amendments;

296 (b) Evidence that the manufacturer has product liability
297 insurance for the safety and welfare of the public in amounts
298 determined by rule of the department; and

299 (c) The fee established by the department under s.
300 320.873(7).

301 (2) The department may revoke any certification upon the
302 failure of the manufacturer to comply with the Florida Building
303 Code or other requirements of ss. 320.870-320.878.

304 (3) Certification of manufacturers under this section shall
305 be for a period of 3 years, subject to renewal by the
306 manufacturer. Upon application for renewal, the manufacturer must
307 submit the information described in subsection (1) or a sworn
308 statement that there has been no change in the status or content
309 of that information since the manufacturer's last submittal. Fees
310 for renewal of manufacturers' certification shall be established
311 by the department by rule.

312 Section 9. Section 320.875, Florida Statutes, is created to
313 read:

314 320.875 Recertification of residential manufactured
315 buildings.--Prior to the relocation, modification, or change of
316 occupancy of a residential manufactured building within the
317 state, the manufacturer, dealer, or owner thereof may apply to
318 the department for recertification of that residential

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319 manufactured building. The department shall, by rule, provide
320 what information the applicant must submit for recertification
321 and for plan review and inspection of such residential
322 manufactured buildings and shall establish fees for
323 recertification. Upon a determination by the department that the
324 residential manufactured building complies with the applicable
325 building codes, the department shall issue a recertification
326 insignia. A residential manufactured building that bears
327 recertification insignia does not require any additional approval
328 by an enforcement jurisdiction in which the building is sold or
329 installed, and is considered to comply with all applicable codes.
330 As an alternative to recertification by the department, the
331 manufacturer, dealer, or owner of a residential manufactured
332 building may seek appropriate permitting and a certificate of
333 occupancy from the local jurisdiction in accordance with
334 procedures generally applicable under the Florida Building Code.

335 Section 10. Section 320.876, Florida Statutes, is created
336 to read:

337 320.876 Application and scope.--The department shall
338 enforce every provision of ss. 320.870-320.878 and rules adopted
339 under ss. 320.870-320.878 and the provisions of Florida Building
340 Code governing residential manufactured buildings, except that
341 local land use and zoning requirements, fire zones, building
342 setback requirements, side and rear yard requirements, site
343 development requirements, property line requirements, subdivision
344 control, and onsite installation requirements, as well as the
345 review and regulation of architectural and aesthetic
346 requirements, are specifically and entirely reserved to local
347 authorities. Such local requirements and rules which may be

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348 enacted by local authorities must be reasonable and uniformly
349 applied and enforced without any distinction as to whether a
350 building is a conventionally constructed or residential
351 manufactured building. A local government shall require permit
352 fees only for those inspections actually performed by the local
353 government for the installation of a factory-built structure.
354 Such fees shall be equal to the amount charged for similar
355 inspections on conventionally built housing.

356 Section 11. Section 320.877, Florida Statutes, is created
357 to read:

358 320.877 Injunctive relief.--The department may seek
359 injunctive or other relief from the circuit court of appropriate
360 jurisdiction to compel compliance with the requirements of ss.
361 320.870-320.878 or with the Florida Building Code or to enjoin
362 the sale, delivery, or installation of a residential manufactured
363 building, upon an affidavit specifying the manner in which the
364 building does not conform to the Florida Building Code or other
365 requirements of ss. 320.870-320.878. Noncompliance with the
366 Florida Building Code or ss. 320.870-320.878 shall be considered
367 prima facie evidence of irreparable damage in any cause of action
368 brought under the authority of ss. 320.870-320.878.

369 Section 12. Section 320.878, Florida Statutes, is created
370 to read:

371 320.878 Penalties.--Any person who violates any of the
372 provisions of ss. 320.870-320.878 is guilty of a misdemeanor of
373 the second degree, punishable as provided in s. 775.082 or s.
374 775.083.

375 Section 13. Section 320.865, Florida Statutes, is
376 transferred and renumbered as section 320.93, Florida Statutes.

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Section 14. Subsection (12) of section 553.36, Florida Statutes, is amended to read:

553.36 Definitions.--The definitions contained in this section govern the construction of this part unless the context otherwise requires.

(12) "Manufactured building" means a closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured in manufacturing facilities for installation or erection as a finished building or as part of a finished building, which shall include, but not be limited to, residential, commercial, institutional, storage, and industrial structures. The term includes buildings not intended for human habitation such as lawn storage buildings and storage sheds manufactured and assembled offsite by a manufacturer certified in conformance with this part. This part does not apply to manufactured homes or mobile homes as defined in chapter 320 and, except as to applicability of Florida Building Code minimum construction standards, does not apply to single-family residential manufactured buildings as defined in chapter 320.

Section 15. Section 553.38, Florida Statutes, is amended to read:

553.38 Application and scope.--Except as provided in chapter 320, the department shall enforce every provision of the Florida Building Code adopted pursuant hereto, except that local land use and zoning requirements, fire zones, building setback requirements, side and rear yard requirements, site development requirements, property line requirements, subdivision control, and onsite installation requirements, as well as the review and

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regulation of architectural and aesthetic requirements, are specifically and entirely reserved to local authorities. Such local requirements and rules which may be enacted by local authorities must be reasonable and uniformly applied and enforced without any distinction as to whether a building is a conventionally constructed or manufactured building. A local government shall require permit fees only for those inspections actually performed by the local government for the installation of a factory-built structure. Such fees shall be equal to the amount charged for similar inspections on conventionally built housing.

Section 16. Conforming legislation.--The Legislature recognizes that there is a need to conform the Florida Statutes to the policy decisions reflected in this act and that there is a need to resolve apparent conflicts between any other legislation that has been or may be enacted during 2006 and the transfer of responsibilities to the Department of Highway Safety and Motor Vehicles by this act. Therefore, in the interim between this act becoming a law and the 2007 Regular Session of the Legislature or an earlier special session addressing this issue, the Division of Statutory Revision shall, upon request, provide the relevant substantive committees of the Senate and the House of Representatives with assistance to enable such committees to prepare draft legislation to conform the Florida Statutes and any legislation enacted during 2006 to the provisions of this act.

Section 17. This act shall take effect July 1, 2006.